

**INCOME TAX ACT OF 1967**  
**Act 281 of 1967**

AN ACT to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, reporting, payment, and enforcement by lien and otherwise of taxes on or measured by net income and on certain commercial, business, and financial activities; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal acts and parts of acts.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

*The People of the State of Michigan enact:*

PART 1

CHAPTER 1

**206.1 Income tax act of 1967; short title.**

Sec. 1. This act is for the purpose of meeting deficiencies in state funds and shall be known and may be cited as the "income tax act of 1967".

**History:** 1967, Act 281, Eff. Oct. 1, 1967.

**206.2 Income tax act; rules of construction; internal revenue code, applicability.**

Sec. 2. (1) For the purposes of this part, the words, terms and phrases set forth in this chapter and their derivations have the meaning given therein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and in the singular number include the plural. "Shall" is always mandatory and "may" is always discretionary.

(2) Any term used in this part shall have the same meaning as when used in comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required. Any reference in this part to the internal revenue code shall include other provisions of the laws of the United States relating to federal income taxes.

(3) It is the intention of this part that the income subject to tax be the same as taxable income as defined and applicable to the subject taxpayer in the internal revenue code, except as otherwise provided in this act.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

**206.4 "Business income" defined.**

Sec. 4. "Business income" means all income arising from transactions, activities, and sources in the regular course of the taxpayer's trade or business and includes the following:

(a) All income from tangible and intangible property if the acquisition, rental, management, or disposition of the property constitutes integral parts of the taxpayer's regular trade or business operations.

(b) Gains or losses from stock and securities of any foreign or domestic corporation and dividend and interest income.

(c) Income derived from isolated sales, leases, assignment, licenses, divisions, or other infrequently occurring dispositions, transfers, or transactions involving property if the property is or was used in the taxpayer's trade or business operation.

(d) Income derived from the sale of a business.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 2003, Act 52, Imd. Eff. July 14, 2003;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

**206.6 "Commercial domicile," "compensation," and "corporation" defined.**

Sec. 6. (1) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(2) "Compensation" means wages as defined in section 3401 and other payments as provided in section 3402 of the internal revenue code.

(3) "Corporation" means, in addition to an incorporated entity, an association, trust or any unincorporated organization which is defined as a corporation in the internal revenue code.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1971, Act 16, Imd. Eff. Apr. 28, 1971;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

## 206.8 Definitions; D, E.

Sec. 8. (1) "Department" means the revenue division of the department of treasury.

(2) "Dependent" means a dependent as defined in section 152 of the internal revenue code.

(3) "Employee" means an employee as defined in section 3401(c) of the internal revenue code. Any person from whom an employer is required to withhold for federal income tax purposes shall prima facie be deemed an employee.

(4) "Employer" means an employer as defined in section 3401(d) of the internal revenue code. Any person required to withhold for federal income tax purposes shall prima facie be deemed an employer.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975;—Am. 2018, Act 38, Imd. Eff. Feb. 28, 2018.

## 206.10 "Fiduciary" defined.

Sec. 10. "Fiduciary" means a guardian, trustee, executor, administrator, executrix, administratrix, receiver, conservator, or any person acting in any fiduciary capacity, whether or not a resident of this state.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1971, Act 76, Imd. Eff. July 30, 1971;—Am. 1972, Act 181, Imd. Eff. Aug. 1, 1972;—Am. 1974, Act 33, Imd. Eff. Mar. 8, 1974;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975.

**Compiler's note:** Section 4 of Act 76 of 1971 provides:

### "Expiration of act; conditions.

"Section 4. The provisions of this amendatory act shall expire August 1, 1972 unless prior thereto the legislature has submitted to the electors constitutional amendments which shall (a) grant property tax relief by limiting of levying of more than 10 mills on property for school operational purposes, (b) permit the legislature to enact taxes on income graduated either as to rate or base or both, or (c) a combination of (a) and (b) as one amendment and (a) as a separate amendment and which said amendments shall be voted upon at a special election to be held on November 2, 1971 or at the general election to be held November 1972."

The legislature did not submit to the electors at a November 2, 1971 special election or at the November, 1972 general election proposed constitutional amendment(s) to effect the purposes enumerated in Section 4 of Act 76 of 1971.

## 206.12 Definitions; F to N.

Sec. 12. (1) "Flow-through entity" means an S corporation, partnership, limited partnership, limited liability partnership, or limited liability company. Flow-through entity does not include a publicly traded partnership as that term is defined in section 7704 of the internal revenue code that has equity securities registered with the securities and exchange commission under section 12 of title I of the securities exchange act of 1934, 15 USC 78l.

(2) "Gross income" means gross income as defined in the internal revenue code.

(3) "Internal revenue code" means the United States internal revenue code of 1986 in effect on January 1, 2018 or at the option of the taxpayer, in effect for the tax year.

(4) "Member of a flow-through entity" means a shareholder of an S corporation; a partner in a partnership or limited partnership; or a member of a limited liability company.

(5) "Nonresident member" means any of the following that is a member of a flow-through entity:

(a) An individual who is not domiciled in this state.

(b) A nonresident estate or trust.

(c) A flow-through entity with a nonresident member.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1970, Act 140, Imd. Eff. Aug. 1, 1970;—Am. 1971, Act 16, Imd. Eff. Apr. 28, 1971;—Am. 1976, Act 434, Imd. Eff. Jan. 11, 1977;—Am. 1980, Act 250, Imd. Eff. July 28, 1980;—Am. 1982, Act 387, Imd. Eff. Dec. 28, 1982;—Am. 1984, Act 283, Imd. Eff. Dec. 20, 1984;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987;—Am. 1996, Act 484, Eff. Jan. 1, 1997;—Am. 2003, Act 45, Eff. Oct. 1, 2003;—Am. 2018, Act 38, Imd. Eff. Feb. 28, 2018.

## 206.14 Nonbusiness income, nonresident and nonresident estate or trust; definitions.

Sec. 14. (1) "Nonbusiness income" means all income other than business income.

(2) "Nonresident" means any individual who is not a resident.

(3) "Nonresident estate or trust" means any estate or trust not included in the definition of a resident estate or trust.

**History:** 1967, Act 281, Eff. Oct. 1, 1967.

## 206.16 Person; definition.

Sec. 16. "Person" includes any individual, firm, association, corporation, receiver, estate, trust or any other group or combination acting as a unit, and the plural as well as the singular number.

**History:** 1967, Act 281, Eff. Oct. 1, 1967.

## 206.18 Resident and domicile; definitions.

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Sec. 18. (1) "Resident" means:

(a) An individual domiciled in the state. "Domicile" means a place where a person has his true, fixed and permanent home and principal establishment to which, whenever absent therefrom he intends to return, and domicile continues until another permanent establishment is established. If an individual during the taxable year being a resident becomes a nonresident or vice versa, taxable income shall be determined separately for income in each status. If an individual lives in this state at least 183 days during the tax year or more than 1/2 the days during a taxable year of less than 12 months he shall be deemed a resident individual domiciled in this state.

(b) The estate of a decedent who at his death was domiciled in this state.

(c) Any trust created by will of a decedent who at his death was domiciled in this state and any trust created by, or consisting of property of, a person domiciled in this state, at the time the trust becomes irrevocable.

(2) For the purpose of the definition of "resident", a taxable year shall be deemed to be terminated at the date of death.

(3) The term "resident" when referring to a corporation means a corporation organized under the laws of this state.

**History:** 1967, Act 281, Eff. Oct. 1, 1967.

#### **206.20 Sales and state; definitions.**

Sec. 20. (1) "Sales" means all gross receipts of the taxpayer not allocated under sections 110 to 114.

(2) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country, or political subdivision, thereof.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969.

#### **206.22 "Tax" and "taxable value" defined.**

Sec. 22. (1) "Tax" includes interest and penalties and further includes the tax required to be withheld on income under part 3, unless the intention to give it a more limited meaning is disclosed by the context.

(2) "Taxable value" means taxable value as calculated under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1996, Act 484, Imd. Eff. Dec. 27, 1996;—Am. 2003, Act 51, Eff. Oct. 1, 2003;—Am. 2016, Act 158, Eff. July 1, 2016.

#### **206.24 "Tax year" or "taxable year" defined.**

Sec. 24. "Tax year" or "taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which taxable income is computed under this part. In the case of a return made for a fractional part of a year, the term shall mean the period for which such return is made. Except for the first return required by this part, any taxpayer's tax year shall be for the same period as is covered by his federal income tax return.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

#### **206.26 "Taxpayer" defined.**

Sec. 26. "Taxpayer" means any person subject to the taxes imposed by this part or subject to the withholding requirements under part 3.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 2003, Act 50, Eff. Oct. 1, 2003;—Am. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2016, Act 158, Eff. July 1, 2016.

#### **206.28 Repealed. 2011, Act 38, Eff. Jan. 1, 2012.**

**Compiler's note:** The repealed section pertained to definition of "taxable income" or "net income".

#### **206.30 "Taxable income" defined; personal exemption; single additional exemption; deduction not considered allowable federal exemption for purposes of subsection (2); allowable exemption or deduction for nonresident or part-year resident; subtraction of prizes under MCL 432.1 to 432.47 from adjusted gross income prohibited; adjusted personal exemption; adjustment on and after January 1, 2013; "retirement or pension benefits" defined; limitations and restrictions; "oil and gas" defined.**

Sec. 30. (1) "Taxable income" means, for a person other than a corporation, estate, or trust, adjusted gross income as defined in the internal revenue code subject to the following adjustments under this section:

(a) Add gross interest income and dividends derived from obligations or securities of states other than Michigan, in the same amount that has been excluded from adjusted gross income less related expenses not deducted in computing adjusted gross income because of section 265(a)(1) of the internal revenue code.

(b) Add taxes on or measured by income to the extent the taxes have been deducted in arriving at adjusted gross income.

(c) Add losses on the sale or exchange of obligations of the United States government, the income of which this state is prohibited from subjecting to a net income tax, to the extent that the loss has been deducted in arriving at adjusted gross income.

(d) Deduct, to the extent included in adjusted gross income, income derived from obligations, or the sale or exchange of obligations, of the United States government that this state is prohibited by law from subjecting to a net income tax, reduced by any interest on indebtedness incurred in carrying the obligations and by any expenses incurred in the production of that income to the extent that the expenses, including amortizable bond premiums, were deducted in arriving at adjusted gross income.

(e) Deduct, to the extent included in adjusted gross income, the following:

(i) Compensation, including retirement or pension benefits, received for services in the Armed Forces of the United States.

(ii) Retirement or pension benefits under the railroad retirement act of 1974, 45 USC 231 to 231v.

(iii) Beginning January 1, 2012, retirement or pension benefits received for services in the Michigan National Guard.

(f) Deduct the following to the extent included in adjusted gross income subject to the limitations and restrictions set forth in subsection (9):

(i) Retirement or pension benefits received from a federal public retirement system or from a public retirement system of or created by this state or a political subdivision of this state.

(ii) Retirement or pension benefits received from a public retirement system of or created by another state or any of its political subdivisions if the income tax laws of the other state permit a similar deduction or exemption or a reciprocal deduction or exemption of a retirement or pension benefit received from a public retirement system of or created by this state or any of the political subdivisions of this state.

(iii) Social Security benefits as defined in section 86 of the internal revenue code.

(iv) Beginning on and after January 1, 2007, retirement or pension benefits not deductible under subparagraph (i) or subdivision (e) from any other retirement or pension system or benefits from a retirement annuity policy in which payments are made for life to a senior citizen, to a maximum of \$42,240.00 for a single return and \$84,480.00 for a joint return. The maximum amounts allowed under this subparagraph shall be reduced by the amount of the deduction for retirement or pension benefits claimed under subparagraph (i) or subdivision (e) and by the amount of a deduction claimed under subdivision (p). For the 2008 tax year and each tax year after 2008, the maximum amounts allowed under this subparagraph shall be adjusted by the percentage increase in the United States Consumer Price Index for the immediately preceding calendar year. The department shall annualize the amounts provided in this subparagraph as necessary. As used in this subparagraph, "senior citizen" means that term as defined in section 514.

(v) The amount determined to be the section 22 amount eligible for the elderly and the permanently and totally disabled credit provided in section 22 of the internal revenue code.

(g) Adjustments resulting from the application of section 271.

(h) Adjustments with respect to estate and trust income as provided in section 36.

(i) Adjustments resulting from the allocation and apportionment provisions of chapter 3.

(j) Deduct the following payments made by the taxpayer in the tax year:

(i) For the 2010 tax year and each tax year after 2010, the amount of a charitable contribution made to the advance tuition payment fund created under section 9 of the Michigan education trust act, 1986 PA 316, MCL 390.1429.

(ii) The amount of payment made under an advance tuition payment contract as provided in the Michigan education trust act, 1986 PA 316, MCL 390.1421 to 390.1442.

(iii) The amount of payment made under a contract with a private sector investment manager that meets all of the following criteria:

(A) The contract is certified and approved by the board of directors of the Michigan education trust to provide equivalent benefits and rights to purchasers and beneficiaries as an advance tuition payment contract as described in subparagraph (ii).

(B) The contract applies only for a state institution of higher education as defined in the Michigan education trust act, 1986 PA 316, MCL 390.1421 to 390.1442, or a community or junior college in Michigan.

(C) The contract provides for enrollment by the contract's qualified beneficiary in not less than 4 years after the date on which the contract is entered into.

(D) The contract is entered into after either of the following:

(I) The purchaser has had his or her offer to enter into an advance tuition payment contract rejected by the board of directors of the Michigan education trust, if the board determines that the trust cannot accept an unlimited number of enrollees upon an actuarially sound basis.

(II) The board of directors of the Michigan education trust determines that the trust can accept an unlimited number of enrollees upon an actuarially sound basis.

(k) If an advance tuition payment contract under the Michigan education trust act, 1986 PA 316, MCL 390.1421 to 390.1442, or another contract for which the payment was deductible under subdivision (j) is terminated and the qualified beneficiary under that contract does not attend a university, college, junior or community college, or other institution of higher education, add the amount of a refund received by the taxpayer as a result of that termination or the amount of the deduction taken under subdivision (j) for payment made under that contract, whichever is less.

(l) Deduct from the taxable income of a purchaser the amount included as income to the purchaser under the internal revenue code after the advance tuition payment contract entered into under the Michigan education trust act, 1986 PA 316, MCL 390.1421 to 390.1442, is terminated because the qualified beneficiary attends an institution of postsecondary education other than either a state institution of higher education or an institution of postsecondary education located outside this state with which a state institution of higher education has reciprocity.

(m) Add, to the extent deducted in determining adjusted gross income, the net operating loss deduction under section 172 of the internal revenue code.

(n) Deduct a net operating loss deduction for the taxable year as determined under section 172 of the internal revenue code subject to the modifications under section 172(b)(2) of the internal revenue code and subject to the allocation and apportionment provisions of chapter 3 of this part for the taxable year in which the loss was incurred.

(o) Deduct, to the extent included in adjusted gross income, benefits from a discriminatory self-insurance medical expense reimbursement plan.

(p) Beginning on and after January 1, 2007, subject to any limitation provided in this subdivision, a taxpayer who is a senior citizen may deduct to the extent included in adjusted gross income, interest, dividends, and capital gains received in the tax year not to exceed \$9,420.00 for a single return and \$18,840.00 for a joint return. The maximum amounts allowed under this subdivision shall be reduced by the amount of a deduction claimed for retirement or pension benefits under subdivision (e) or a deduction claimed under subdivision (f)(i), (ii), (iv), or (v). For the 2008 tax year and each tax year after 2008, the maximum amounts allowed under this subdivision shall be adjusted by the percentage increase in the United States Consumer Price Index for the immediately preceding calendar year. The department shall annualize the amounts provided in this subdivision as necessary. Beginning January 1, 2012, the deduction under this subdivision is not available to a senior citizen born after 1945. As used in this subdivision, "senior citizen" means that term as defined in section 514.

(q) Deduct, to the extent included in adjusted gross income, all of the following:

(i) The amount of a refund received in the tax year based on taxes paid under this part.

(ii) The amount of a refund received in the tax year based on taxes paid under the city income tax act, 1964 PA 284, MCL 141.501 to 141.787.

(iii) The amount of a credit received in the tax year based on a claim filed under sections 520 and 522 to the extent that the taxes used to calculate the credit were not used to reduce adjusted gross income for a prior year.

(r) Add the amount paid by the state on behalf of the taxpayer in the tax year to repay the outstanding principal on a loan taken on which the taxpayer defaulted that was to fund an advance tuition payment contract entered into under the Michigan education trust act, 1986 PA 316, MCL 390.1421 to 390.1442, if the cost of the advance tuition payment contract was deducted under subdivision (j) and was financed with a Michigan education trust secured loan.

(s) Deduct, to the extent included in adjusted gross income, any amount, and any interest earned on that amount, received in the tax year by a taxpayer who is a Holocaust victim as a result of a settlement of claims against any entity or individual for any recovered asset pursuant to the German act regulating unresolved property claims, also known as Gesetz zur Regelung offener Vermögensfragen, as a result of the settlement of the action entitled *In re: Holocaust victim assets litigation*, CV-96-4849, CV-96-5161, and CV-97-0461 (E.D. NY), or as a result of any similar action if the income and interest are not commingled in any way with and are kept separate from all other funds and assets of the taxpayer. As used in this subdivision:

(i) "Holocaust victim" means a person, or the heir or beneficiary of that person, who was persecuted by Nazi Germany or any Axis regime during any period from 1933 to 1945.

(ii) "Recovered asset" means any asset of any type and any interest earned on that asset including, but not limited to, bank deposits, insurance proceeds, or artwork owned by a Holocaust victim during the period from 1920 to 1945, withheld from that Holocaust victim from and after 1945, and not recovered, returned, or otherwise compensated to the Holocaust victim until after 1993.

(t) Deduct all of the following:

(i) To the extent not deducted in determining adjusted gross income, contributions made by the taxpayer in the tax year less qualified withdrawals made in the tax year from education savings accounts, calculated on a per education savings account basis, pursuant to the Michigan education savings program act, 2000 PA 161, MCL 390.1471 to 390.1486, not to exceed a total deduction of \$5,000.00 for a single return or \$10,000.00 for a joint return per tax year. The amount calculated under this subparagraph for each education savings account shall not be less than zero.

(ii) To the extent included in adjusted gross income, interest earned in the tax year on the contributions to the taxpayer's education savings accounts if the contributions were deductible under subparagraph (i).

(iii) To the extent included in adjusted gross income, distributions that are qualified withdrawals from an education savings account to the designated beneficiary of that education savings account.

(u) Add, to the extent not included in adjusted gross income, the amount of money withdrawn by the taxpayer in the tax year from education savings accounts, not to exceed the total amount deducted under subdivision (t) in the tax year and all previous tax years, if the withdrawal was not a qualified withdrawal as provided in the Michigan education savings program act, 2000 PA 161, MCL 390.1471 to 390.1486. This subdivision does not apply to withdrawals that are less than the sum of all contributions made to an education savings account in all previous tax years for which no deduction was claimed under subdivision (t), less any contributions for which no deduction was claimed under subdivision (t) that were withdrawn in all previous tax years.

(v) A taxpayer who is a resident tribal member may deduct, to the extent included in adjusted gross income, all nonbusiness income earned or received in the tax year and during the period in which an agreement entered into between the taxpayer's tribe and this state pursuant to section 30c of 1941 PA 122, MCL 205.30c, is in full force and effect. As used in this subdivision:

(i) "Business income" means business income as defined in section 4 and apportioned under chapter 3.

(ii) "Nonbusiness income" means nonbusiness income as defined in section 14 and, to the extent not included in business income, all of the following:

(A) All income derived from wages whether the wages are earned within the agreement area or outside of the agreement area.

(B) All interest and passive dividends.

(C) All rents and royalties derived from real property located within the agreement area.

(D) All rents and royalties derived from tangible personal property, to the extent the personal property is utilized within the agreement area.

(E) Capital gains from the sale or exchange of real property located within the agreement area.

(F) Capital gains from the sale or exchange of tangible personal property located within the agreement area at the time of sale.

(G) Capital gains from the sale or exchange of intangible personal property.

(H) All pension income and benefits including, but not limited to, distributions from a 401(k) plan, individual retirement accounts under section 408 of the internal revenue code, or a defined contribution plan, or payments from a defined benefit plan.

(I) All per capita payments by the tribe to resident tribal members, without regard to the source of payment.

(J) All gaming winnings.

(iii) "Resident tribal member" means an individual who meets all of the following criteria:

(A) Is an enrolled member of a federally recognized tribe.

(B) The individual's tribe has an agreement with this state pursuant to section 30c of 1941 PA 122, MCL 205.30c, that is in full force and effect.

(C) The individual's principal place of residence is located within the agreement area as designated in the agreement under sub-subparagraph (B).

(w) For tax years beginning after December 31, 2011, eliminate all of the following:

(i) Income from producing oil and gas to the extent included in adjusted gross income.

(ii) Expenses of producing oil and gas to the extent deducted in arriving at adjusted gross income.

(x) For tax years that begin after December 31, 2015, deduct all of the following:

(i) To the extent not deducted in determining adjusted gross income, contributions made by the taxpayer in the tax year less qualified withdrawals made in the tax year from an ABLE savings account, pursuant to the

Michigan ABLE program act, 2015 PA 160, MCL 206.981 to 206.997, not to exceed a total deduction of \$5,000.00 for a single return or \$10,000.00 for a joint return per tax year. The amount calculated under this subparagraph for an ABLE savings account shall not be less than zero.

(ii) To the extent included in adjusted gross income, interest earned in the tax year on the contributions to the taxpayer's ABLE savings account if the contributions were deductible under subparagraph (i).

(iii) To the extent included in adjusted gross income, distributions that are qualified withdrawals from an ABLE savings account to the designated beneficiary of that ABLE savings account.

(y) Add, to the extent not included in adjusted gross income, the amount of money withdrawn by the taxpayer in the tax year from an ABLE savings account, not to exceed the total amount deducted under subdivision (x) in the tax year and all previous tax years, if the withdrawal was not a qualified withdrawal as provided in the Michigan ABLE program act, 2015 PA 160, MCL 206.981 to 206.997. This subdivision does not apply to withdrawals that are less than the sum of all contributions made to an ABLE savings account in all previous tax years for which no deduction was claimed under subdivision (x), less any contributions for which no deduction was claimed under subdivision (x) that were withdrawn in all previous tax years.

(2) Except as otherwise provided in subsection (7) and section 30a, a personal exemption of \$3,700.00 multiplied by the number of personal and dependency exemptions shall be subtracted in the calculation that determines taxable income. The number of personal and dependency exemptions allowed shall be determined as follows:

(a) Each taxpayer may claim 1 personal exemption. However, if a joint return is not made by the taxpayer and his or her spouse, the taxpayer may claim a personal exemption for the spouse if the spouse, for the calendar year in which the taxable year of the taxpayer begins, does not have any gross income and is not the dependent of another taxpayer.

(b) A taxpayer may claim a dependency exemption for each individual who is a dependent of the taxpayer for the tax year.

(3) Except as otherwise provided in subsection (7), a single additional exemption determined as follows shall be subtracted in the calculation that determines taxable income in each of the following circumstances:

(a) \$1,800.00 for each taxpayer and every dependent of the taxpayer who is a deaf person as defined in section 2 of the deaf persons' interpreters act, 1982 PA 204, MCL 393.502; a paraplegic, a quadriplegic, or a hemiplegic; a person who is blind as defined in section 504; or a person who is totally and permanently disabled as defined in section 522. When a dependent of a taxpayer files an annual return under this part, the taxpayer or dependent of the taxpayer, but not both, may claim the additional exemption allowed under this subdivision.

(b) For tax years beginning after 2007, \$250.00 for each taxpayer and every dependent of the taxpayer who is a qualified disabled veteran. When a dependent of a taxpayer files an annual return under this part, the taxpayer or dependent of the taxpayer, but not both, may claim the additional exemption allowed under this subdivision. As used in this subdivision:

(i) "Qualified disabled veteran" means a veteran with a service-connected disability.

(ii) "Service-connected disability" means a disability incurred or aggravated in the line of duty in the active military, naval, or air service as described in 38 USC 101(16).

(iii) "Veteran" means a person who served in the active military, naval, marine, coast guard, or air service and who was discharged or released from his or her service with an honorable or general discharge.

(4) An individual with respect to whom a deduction under subsection (2) is allowable to another taxpayer during the tax year is not entitled to an exemption for purposes of subsection (2), but may subtract \$1,500.00 in the calculation that determines taxable income for a tax year.

(5) A nonresident or a part-year resident is allowed that proportion of an exemption or deduction allowed under subsection (2), (3), or (4) that the taxpayer's portion of adjusted gross income from Michigan sources bears to the taxpayer's total adjusted gross income.

(6) In calculating taxable income, a taxpayer shall not subtract from adjusted gross income the amount of prizes won by the taxpayer under the McCauley-Traxler-Law-Bowman-McNeely lottery act, 1972 PA 239, MCL 432.1 to 432.47.

(7) For each tax year beginning on and after January 1, 2013, the personal exemption allowed under subsection (2) shall be adjusted by multiplying the exemption for the tax year beginning in 2012 by a fraction, the numerator of which is the United States Consumer Price Index for the state fiscal year ending in the tax year prior to the tax year for which the adjustment is being made and the denominator of which is the United States Consumer Price Index for the 2010-2011 state fiscal year. For the 2022 tax year and each tax year after 2022, the adjusted amount determined under this subsection shall be increased by an additional \$600.00. The resultant product shall be rounded to the nearest \$100.00 increment. As used in this section, "United States Consumer Price Index" means the United States Consumer Price Index for all urban consumers as defined and

reported by the United States Department of Labor, Bureau of Labor Statistics. For each tax year, the exemptions allowed under subsection (3) shall be adjusted by multiplying the exemption amount under subsection (3) for the tax year by a fraction, the numerator of which is the United States Consumer Price Index for the state fiscal year ending the tax year prior to the tax year for which the adjustment is being made and the denominator of which is the United States Consumer Price Index for the 1998-1999 state fiscal year. The resultant product shall be rounded to the nearest \$100.00 increment.

(8) As used in this section, "retirement or pension benefits" means distributions from all of the following:

(a) Except as provided in subdivision (d), qualified pension trusts and annuity plans that qualify under section 401(a) of the internal revenue code, including all of the following:

(i) Plans for self-employed persons, commonly known as Keogh or HR10 plans.

(ii) Individual retirement accounts that qualify under section 408 of the internal revenue code if the distributions are not made until the participant has reached 59-1/2 years of age, except in the case of death, disability, or distributions described by section 72(t)(2)(A)(iv) of the internal revenue code.

(iii) Employee annuities or tax-sheltered annuities purchased under section 403(b) of the internal revenue code by organizations exempt under section 501(c)(3) of the internal revenue code, or by public school systems.

(iv) Distributions from a 401(k) plan attributable to employee contributions mandated by the plan or attributable to employer contributions.

(b) The following retirement and pension plans not qualified under the internal revenue code:

(i) Plans of the United States, state governments other than this state, and political subdivisions, agencies, or instrumentalities of this state.

(ii) Plans maintained by a church or a convention or association of churches.

(iii) All other unqualified pension plans that prescribe eligibility for retirement and predetermine contributions and benefits if the distributions are made from a pension trust.

(c) Retirement or pension benefits received by a surviving spouse if those benefits qualified for a deduction prior to the decedent's death. Benefits received by a surviving child are not deductible.

(d) Retirement and pension benefits do not include:

(i) Amounts received from a plan that allows the employee to set the amount of compensation to be deferred and does not prescribe retirement age or years of service. These plans include, but are not limited to, all of the following:

(A) Deferred compensation plans under section 457 of the internal revenue code.

(B) Distributions from plans under section 401(k) of the internal revenue code other than plans described in subdivision (a)(iv).

(C) Distributions from plans under section 403(b) of the internal revenue code other than plans described in subdivision (a)(iii).

(ii) Premature distributions paid on separation, withdrawal, or discontinuance of a plan prior to the earliest date the recipient could have retired under the provisions of the plan.

(iii) Payments received as an incentive to retire early unless the distributions are from a pension trust.

(9) In determining taxable income under this section, the following limitations and restrictions apply:

(a) For a person born before 1946, this subsection provides no additional restrictions or limitations under subsection (1)(f).

(b) Except as otherwise provided in subdivision (c), for a person born in 1946 through 1952, the sum of the deductions under subsection (1)(f)(i), (ii), and (iv) is limited to \$20,000.00 for a single return and \$40,000.00 for a joint return. After that person reaches the age of 67, the deductions under subsection (1)(f)(i), (ii), and (iv) do not apply and that person is eligible for a deduction of \$20,000.00 for a single return and \$40,000.00 for a joint return, which deduction is available against all types of income and is not restricted to income from retirement or pension benefits. A person who takes the deduction under subsection (1)(e) is not eligible for the unrestricted deduction of \$20,000.00 for a single return and \$40,000.00 for a joint return under this subdivision.

(c) Beginning January 1, 2013 for a person born in 1946 through 1952 and beginning January 1, 2018 for a person born after 1945 who has retired as of January 1, 2013, if that person receives retirement or pension benefits from employment with a governmental agency that was not covered by the federal social security act, chapter 531, 49 Stat 620, the sum of the deductions under subsection (1)(f)(i), (ii), and (iv) is limited to \$35,000.00 for a single return and, except as otherwise provided under this subdivision, \$55,000.00 for a joint return. If both spouses filing a joint return receive retirement or pension benefits from employment with a governmental agency that was not covered by the federal social security act, chapter 531, 49 Stat 620, the sum of the deductions under subsection (1)(f)(i), (ii), and (iv) is limited to \$70,000.00 for a joint return. After that person reaches the age of 67, the deductions under subsection (1)(f)(i), (ii), and (iv) do not apply and that



person is eligible for a deduction of \$35,000.00 for a single return and \$55,000.00 for a joint return, or \$70,000.00 for a joint return if applicable, which deduction is available against all types of income and is not restricted to income from retirement or pension benefits. A person who takes the deduction under subsection (1)(e) is not eligible for the unrestricted deduction of \$35,000.00 for a single return and \$55,000.00 for a joint return, or \$70,000.00 for a joint return if applicable, under this subdivision.

(d) Except as otherwise provided under subdivision (c) for a person who was retired as of January 1, 2013, for a person born after 1952 who has reached the age of 62 through 66 years of age and who receives retirement or pension benefits from employment with a governmental agency that was not covered by the federal social security act, chapter 532, 49 Stat 620, the sum of the deductions under subsection (1)(f)(i), (ii), and (iv) is limited to \$15,000.00 for a single return and, except as otherwise provided under this subdivision, \$15,000.00 for a joint return. If both spouses filing a joint return receive retirement or pension benefits from employment with a governmental agency that was not covered by the federal social security act, chapter 532, 49 Stat 620, the sum of the deductions under subsection (1)(f)(i), (ii), and (iv) is limited to \$30,000.00 for a joint return.

(e) Except as otherwise provided under subdivision (c) or (d), for a person born after 1952, the deduction under subsection (1)(f)(i), (ii), or (iv) does not apply. When that person reaches the age of 67, that person is eligible for a deduction of \$20,000.00 for a single return and \$40,000.00 for a joint return, which deduction is available against all types of income and is not restricted to income from retirement or pension benefits. If a person takes the deduction of \$20,000.00 for a single return and \$40,000.00 for a joint return, that person shall not take the deduction under subsection (1)(f)(iii) and shall not take the personal exemption under subsection (2). That person may elect not to take the deduction of \$20,000.00 for a single return and \$40,000.00 for a joint return and elect to take the deduction under subsection (1)(f)(iii) and the personal exemption under subsection (2) if that election would reduce that person's tax liability. A person who takes the deduction under subsection (1)(e) is not eligible for the unrestricted deduction of \$20,000.00 for a single return and \$40,000.00 for a joint return under this subdivision.

(f) For a joint return, the limitations and restrictions in this subsection shall be applied based on the age of the older spouse filing the joint return.

(10) As used in this section, "oil and gas" means oil and gas subject to severance tax under 1929 PA 48, MCL 205.301 to 205.317.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1970, Act 140, Imd. Eff. Aug. 1, 1970;—Am. 1971, Act 150, Imd. Eff. Nov. 22, 1971;—Am. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1974, Act 12, Imd. Eff. Feb. 15, 1974;—Am. 1974, Act 217, Imd. Eff. July 21, 1974;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975;—Am. 1976, Act 435, Imd. Eff. Jan. 11, 1977;—Am. 1978, Act 554, Imd. Eff. Dec. 22, 1978;—Am. 1980, Act 250, Imd. Eff. July 28, 1980;—Am. 1980, Act 517, Imd. Eff. Jan. 26, 1981;—Am. 1981, Act 135, Imd. Eff. Oct. 21, 1981;—Am. 1982, Act 240, Imd. Eff. Sept. 23, 1982;—Am. 1984, Act 284, Imd. Eff. Dec. 20, 1984;—Am. 1984, Act 415, Imd. Eff. Dec. 28, 1984;—Am. 1986, Act 315, Imd. Eff. Dec. 23, 1986;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987;—Am. 1988, Act 516, Imd. Eff. Dec. 30, 1988;—Am. 1993, Act 328, Eff. Apr. 1, 1994;—Am. 1994, Act 268, Eff. July 7, 1994;—Am. 1995, Act 2, Imd. Eff. Mar. 8, 1995;—Am. 1995, Act 230, Eff. Jan. 9, 1996;—Am. 1996, Act 484, Eff. Jan. 1, 1997;—Am. 1997, Act 86, Imd. Eff. July 28, 1997;—Am. 1999, Act 181, Imd. Eff. Nov. 16, 1999;—Am. 2000, Act 162, Imd. Eff. June 16, 2000;—Am. 2000, Act 301, Imd. Eff. Oct. 11, 2000;—Am. 2000, Act 400, Imd. Eff. Jan. 8, 2001;—Am. 2002, Act 615, Imd. Eff. Dec. 20, 2002;—Am. 2004, Act 394, Imd. Eff. Oct. 15, 2004;—Am. 2005, Act 214, Imd. Eff. Nov. 21, 2005;—Am. 2007, Act 94, Imd. Eff. Oct. 1, 2007;—Am. 2007, Act 154, Imd. Eff. Dec. 20, 2007;—Am. 2009, Act 134, Imd. Eff. Nov. 4, 2009;—Am. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2012, Act 597, Imd. Eff. Jan. 9, 2013;—Am. 2015, Act 161, Imd. Eff. Oct. 28, 2015;—Am. 2017, Act 149, Eff. (sine die);—Am. 2018, Act 38, Imd. Eff. Feb. 28, 2018.

**Constitutionality:** The Michigan Income Tax Act violates principles of intergovernmental immunity by favoring retired state and local government employees over retired federal employees. *Davis v. Michigan Dept. of Treasury*, 109 S.Ct. 1500 (1989).

**Compiler's note:** Act 253 of 1980, purporting to amend MCL 206.30, 206.512, 206.520, and 206.522 and to add a MCL 206.261 could not take effect until Senate Joint Resolution X became effective as part of the constitution. Senate Joint Resolution X was submitted to and disapproved by the people at the general election held on November 4, 1980.

Enacting section 1 of Act 181 of 1999 provides:

"Enacting section 1. Notwithstanding any other provision of law, this amendatory act is intended to be retroactive and effective for tax years that begin on and after January 1, 1994."

Enacting section 1 of Act 597 of 2012 provides:

"Enacting section 1. This amendatory act takes effect January 1, 2012."

**Compiler's note:** In subsection (1)(x)(iii), the phrase "Distributions that are qualified withdrawals from an ABLE savings account to the designated beneficiary of that ABLE savings account." evidently should read "To the extent included in adjusted gross income, distributions that are qualified withdrawals from an ABLE savings account to the designated beneficiary of that ABLE savings account."

## 206.30a Taxable income; adjustment.

Sec. 30a. Notwithstanding any other provision of this part, for the 2012 tax year and each tax year after 2012 through the 2021 tax year, taxable income for purposes of this part means taxable income as determined

under section 30 with the following adjustment. For the 2012 tax year and each tax year after 2012 through the 2021 tax year, to determine taxable income, a taxpayer shall claim a personal exemption deduction equal to the amount calculated pursuant to section 30(2) or equal to the following amounts multiplied by the number of personal and dependency exemptions allowable under section 30(2), whichever calculation is greater:

(a) Beginning on and after October 1, 2012 and before January 1, 2014, \$3,950.00. The department shall annualize the personal exemption deduction for the 2012 tax year, rounded to the nearest \$1.00.

(b) Beginning on and after January 1, 2014 and before January 1, 2018, \$4,000.00.

(c) For the 2018 tax year, \$4,050.00.

(d) For the 2019 tax year, \$4,400.00.

(e) For the 2020 tax year, \$4,750.00.

(f) For the 2021 tax year, \$4,900.00.

**History:** Add. 2012, Act 224, Imd. Eff. June 29, 2012;—Am. 2018, Act 38, Imd. Eff. Feb. 28, 2018.

**Compiler's note:** Former MCL 206.30a, which pertained to certain allowable deductions, was repealed by Act 484 of 1996, Eff. Jan. 1, 1997.

### **206.30b-206.30c Repealed. 1996, Act 484, Eff. Jan. 1, 1997.**

**Compiler's note:** The repealed sections pertained to certain allowable deductions.

### **206.30d Repealed. 2011, Act 38, Eff. Jan. 1, 2012.**

**Compiler's note:** The repealed section pertained to short title of amendatory act and dependent child exemption.

### **206.30e Repealed. 2018, Act 38, Imd. Eff. Feb. 28, 2018.**

**Compiler's note:** The repealed section pertained to "dependent" defined.

### **206.30f Repealed. 2018, Act 38, Imd. Eff. Feb. 28, 2018.**

**Compiler's note:** The repealed section pertained to taxable income adjustment for educational savings accounts.

### **206.31 Repealed. 2011, Act 38, Eff. Jan. 1, 2012.**

**Compiler's note:** The repealed section pertained to taxpayers residing in renaissance zone.

### **206.31a Taxable income; determination; deduction; eligibility; filing annual return; withholding form; filing claim to which not entitled; penalty and interest; taxable income derived from illegal activity; calculation of net operating loss deduction; change in status; definitions.**

Sec. 31a. (1) Notwithstanding any other provision of this act and for the 2012 tax year and each tax year after 2012, "taxable income" means taxable income as determined under section 30 and, except as otherwise provided, subsequently adjusted under this section.

(2) For the 2012 tax year and each tax year after 2012 and to the extent and for the duration provided in the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, to determine taxable income, a qualified taxpayer may deduct, to the extent included in adjusted gross income, an amount equal to the sum of all of the following:

(a) Except as provided in subdivisions (b), (c), and (d), income earned or received during the period of time that the qualified taxpayer was a resident of a qualified renaissance zone.

(b) Interest and dividends received in the tax year during the period that the qualified taxpayer was a resident of a qualified renaissance zone.

(c) Capital gains received in the tax year prorated based on the percentage of time that the asset was held by the qualified taxpayer while the qualified taxpayer was a resident of the qualified renaissance zone.

(d) Income received by the qualified taxpayer from winning an on-line lottery game sponsored by this state only if the date on which the drawing for that game was held was after the taxpayer became a resident of a qualified renaissance zone and income received by the qualified taxpayer from winning an instant lottery game sponsored by this state only if the taxpayer was a resident of a qualified renaissance zone on the validation date of the lottery ticket for that game.

(3) Income used to calculate a deduction under any other section of this act shall not be used to calculate a deduction under this section.

(4) If a qualified taxpayer completes the residency requirements under subsection (11)(e), the qualified taxpayer may claim the deduction allowed under this section.

(5) To be eligible for the deduction under this section, a taxpayer shall file an annual return under this act.

(6) A qualified taxpayer shall file a withholding form prescribed by the department with his or her employer within 10 days after the date the taxpayer completes the requirements under subsection (11)(e).

(7) If the department finds that a taxpayer has claimed a deduction under this section to which he or she is not entitled, the taxpayer is subject to the interest and penalty provisions under 1941 PA 122, MCL 205.1 to 205.31.

(8) Any portion of taxable income derived from illegal activity conducted anywhere shall not be used to calculate a deduction under this section.

(9) The net operating loss deduction allowed under section 30(1)(n) shall be calculated without regard to the deductions allowed under this section.

(10) If a taxpayer who was a qualified taxpayer during the tax year changes status and is not a qualified taxpayer or vice versa, income subject to tax under this act shall be determined separately for income in each status.

(11) As used in this section:

(a) "Domicile" means a place where a person has his or her true, fixed, and permanent home and principal establishment to which, whenever absent, he or she intends to return, and domicile continues until another permanent establishment is established.

(b) "Qualified renaissance zone" means those geographic areas in a renaissance zone that were designated as a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, before January 1, 2012 and, except for an extension or renewal granted under section 4(8) of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2684, does not include any portion of a renaissance zone for which an extension or renewal is approved after December 31, 2011.

(c) "Qualified taxpayer" means a taxpayer that is a resident of a qualified renaissance zone and that has gross income not exceeding \$1,000,000.00 for any tax year for which the taxpayer claims a credit under this section.

(d) "Renaissance zone" means that term as defined in section 3 of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2683.

(e) "Resident" means an individual domiciled in an area that is a qualified renaissance zone for a period of 183 consecutive days. A taxpayer may begin calculating the 183-day period during the 183 days immediately preceding the designation of the area as a qualified renaissance zone. Resident includes the estate of an individual who was a resident of a qualified renaissance zone at the time of death. After a taxpayer has completed the 183-day residency requirement under this subdivision, the taxpayer is considered to have been a resident of that qualified renaissance zone beginning from the first day used to determine if the 183-day residency requirement has been met.

**History:** Add. 2011, Act 314, Eff. Jan. 1, 2012;—Am. 2018, Act 103, Imd. Eff. Apr. 5, 2018.

#### **206.31b Adjustment; "mineral" and "qualified taxpayer" defined.**

Sec. 31b. (1) Notwithstanding any other provision of this part, for the 2013 tax year and each tax year after 2013, taxable income for purposes of this part means taxable income as determined under section 30 with the following adjustment. For the 2013 tax year and each tax year after 2013, eliminate all of the following:

(a) Income derived from a mineral to the extent included in adjusted gross income.

(b) Expenses related to the income deductible under subdivision (a) to the extent deducted in arriving at adjusted gross income.

(2) As used in this act:

(a) "Mineral" means that term as defined in section 2 of the nonferrous metallic minerals extraction severance tax act.

(b) "Qualified taxpayer" means a taxpayer subject to the minerals severance tax levied under the nonferrous metallic minerals extraction severance tax act.

**History:** Add. 2012, Act 414, Imd. Eff. Dec. 20, 2012.

#### **206.32, 206.34 Repealed. 1975, Act 233, Imd. Eff. Aug. 27, 1975.**

**Compiler's note:** The repealed sections defined taxable income of corporations and financial institutions.

#### **206.36 "Taxable income" of resident estate or trust defined; "oil and gas" defined.**

Sec. 36. (1) "Taxable income" in the case of a resident estate or trust means federal taxable income as defined in the internal revenue code subject to the following adjustments:

(a) Add gross interest income and dividends derived from obligations or securities of states other than Michigan, in the same amount which has been excluded from federal taxable income less related expenses not deducted in computing federal taxable income because of section 265 of the internal revenue code.

(b) Add taxes on or measured by income to the extent the taxes have been deducted in arriving at federal taxable income.

(c) Add losses on the sale or exchange of obligations of the United States government, the income of which this state is prohibited from subjecting to a net income tax, to the extent that the loss has been deducted in arriving at federal taxable income.

(d) Deduct, to the extent included in federal taxable income, income derived from obligations, or the sale or exchange of obligations, of the United States government which this state is prohibited by law from subjecting to a net income tax, reduced by any interest on indebtedness incurred in carrying the obligations, and by any expenses incurred in the production of such income to the extent that the expenses, including amortizable bond premiums, were deducted in arriving at federal taxable income.

(e) Adjustments resulting from the application of section 271.

(f) Deduct an adjustment resulting from the allocation and apportionment provisions of chapter 3.

(g) For tax years beginning after December 31, 2011, eliminate all of the following:

(i) Income from producing oil and gas to the extent included in federal taxable income.

(ii) Expenses of producing oil and gas to the extent deducted in arriving at federal taxable income.

(2) The respective shares of an estate or trust and its beneficiaries, including, solely for the purpose of this allocation, nonresident beneficiaries, in the additions and subtractions to taxable income shall be in proportion to their respective shares of distributable net income of the estate or trust as defined in the internal revenue code. If the estate or trust has no distributable net income for the taxable year, the share of each beneficiary in the additions and subtractions shall be in proportion to his or her share of the estate or trust income for the year, under local law or the terms of the instrument, which is required to be distributed currently and any other amounts of such income distributed in the year. Any balance of the additions and subtractions shall be allocated to the estate or trust. If capital gains and losses are distributed or distributable to a beneficiary or beneficiaries under the internal revenue code, the fiduciary shall advise each beneficiary of his or her share of the adjustment under section 271. The election or failure to elect under section 271 with respect to capital gains and losses taxable to the estate or trust shall not affect the beneficiary's right to elect or not to elect under section 271.

(3) An addition or subtraction shall not be made under this section which has the effect of duplicating an item of income or deduction if the taxpayer establishes to the satisfaction of the commissioner that the item is already reflected in federal taxable income. If an addition or subtraction with respect to the sale or exchange of obligations of the United States government proper adjustment, in accordance with rules promulgated by the department, of the deduction for excess of capital gains over capital losses shall be made.

(4) As used in this section, "oil and gas" means oil and gas that is subject to severance tax under 1929 PA 48, MCL 205.301 to 205.317.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1970, Act 140, Imd. Eff. Aug. 1, 1970;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

## CHAPTER 2

### **206.51 Tax rate on taxable income of person other than corporation; percentages of collections deposited in state school aid fund; farmland credits; imposition of annualized rate; computation of taxable income of nonresident; resident beneficiary of trust; tax credit; including items of income and deductions from trust in taxable income; intent of section; definitions.**

Sec. 51. (1) For receiving, earning, or otherwise acquiring income from any source whatsoever, there is levied and imposed under this part upon the taxable income of every person other than a corporation a tax at the following rates in the following circumstances:

(a) On and after October 1, 2007 and before October 1, 2012, 4.35%.

(b) Except as otherwise provided under subdivision (c), on and after October 1, 2012, 4.25%.

(c) For each tax year beginning on and after January 1, 2023, if the percentage increase in the total general fund/general purpose revenue from the immediately preceding fiscal year is greater than the inflation rate for the same period and the inflation rate is positive, then the current rate shall be reduced by an amount determined by multiplying that rate by a fraction, the numerator of which is the difference between the total general fund/general purpose revenue from the immediately preceding state fiscal year and the capped general fund/general purpose revenue and the denominator of which is the total revenue collected from this part in the immediately preceding state fiscal year. For purposes of this subdivision only, the state treasurer, the director of the senate fiscal agency, and the director of the house fiscal agency shall determine whether the total revenue distributed to general fund/general purpose revenue has increased as required under this subdivision based on the comprehensive annual financial report prepared and published by the department of technology, management, and budget in accordance with section 23 of article IX of the state constitution of 1963. The

state treasurer, the director of the senate fiscal agency, and the director of the house fiscal agency shall make the determination under this subdivision no later than the date of the January 2023 revenue estimating conference conducted pursuant to sections 367a through 367f of the management and budget act, 1984 PA 431, MCL 18.1367a to 18.1367f, and the date of each January revenue estimating conference conducted each year thereafter. As used in this subdivision:

(i) "Capped general fund/general purpose revenue" means the total general fund/general purpose revenue from the 2020-2021 state fiscal year multiplied by the sum of 1 plus the product of 1.425 times the difference between a fraction, the numerator of which is the consumer price index for the state fiscal year ending in the tax year prior to the tax year for which the adjustment is being made and the denominator of which is the consumer price index for the 2020-2021 state fiscal year, and 1.

(ii) "Total general fund/general purpose revenue" means the total general fund/general purpose revenue and other financing sources as published in the comprehensive annual financial report schedule of revenue and other financing sources – general fund for that fiscal year plus any distribution made pursuant to section 51d.

(2) Beginning January 1, 2000, that percentage of the gross collections before refunds from the tax levied under this section that is equal to 1.012% divided by the income tax rate levied under this section shall be deposited in the state school aid fund created in section 11 of article IX of the state constitution of 1963.

(3) In addition to the distribution under subsection (2) and section 51d, beginning October 1, 2016, from the revenue collected under this section an amount equal to 3.5% of the average amount of farmland tax credits claimed under section 36109 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.36109, for the immediately preceding 3 state fiscal years shall be deposited into the agricultural preservation fund created in section 36202 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.36202.

(4) The department shall annualize rates provided in subsection (1) as necessary. The applicable annualized rate shall be imposed upon the taxable income of every person other than a corporation for those tax years.

(5) The taxable income of a nonresident shall be computed in the same manner that the taxable income of a resident is computed, subject to the allocation and apportionment provisions of this part.

(6) A resident beneficiary of a trust whose taxable income includes all or part of an accumulation distribution by a trust, as defined in section 665 of the internal revenue code, shall be allowed a credit against the tax otherwise due under this part. The credit shall be all or a proportionate part of any tax paid by the trust under this part for any preceding taxable year that would not have been payable if the trust had in fact made distribution to its beneficiaries at the times and in the amounts specified in section 666 of the internal revenue code. The credit shall not reduce the tax otherwise due from the beneficiary to an amount less than would have been due if the accumulation distribution were excluded from taxable income.

(7) The taxable income of a resident who is required to include income from a trust in his or her federal income tax return under the provisions of 26 USC 671 to 679, shall include items of income and deductions from the trust in taxable income to the extent required by this part with respect to property owned outright.

(8) It is the intention of this section that the income subject to tax of every person other than corporations shall be computed in like manner and be the same as provided in the internal revenue code subject to adjustments specifically provided for in this part.

(9) As used in this section:

(a) "Consumer price index" means the United States consumer price index for all urban consumers as defined and reported by the United States Department of Labor, Bureau of Labor Statistics.

(b) "Inflation rate" means the annual percentage change in the consumer price index, as determined by the department, comparing the 2 most recent completed state fiscal years.

(c) "Person other than a corporation" means a resident or nonresident individual or any of the following:

(i) A partner in a partnership as defined in the internal revenue code.

(ii) A beneficiary of an estate or a trust as defined in the internal revenue code.

(iii) An estate or trust as defined in the internal revenue code.

(d) "Taxable income" means taxable income as defined in this part subject to the applicable source and attribution rules contained in this part.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1971, Act 76, Eff. Aug. 1, 1971;—Am. 1972, Act 181, Eff. Aug. 1, 1972;—Am. 1975, Act 19, Eff. May 1, 1975;—Am. 1977, Act 44, Imd. Eff. June 30, 1977;—Am. 1982, Act 155, Imd. Eff. May 17, 1982;—Am. 1983, Act 15, Imd. Eff. Mar. 29, 1983;—Am. 1984, Act 221, Imd. Eff. July 26, 1984;—Am. 1986, Act 16, Eff. Mar. 26, 1986;—Am. 1990, Act 283, Imd. Eff. Dec. 14, 1990;—Am. 1993, Act 328, Eff. Apr. 1, 1994;—Am. 1995, Act 194, Imd. Eff. Nov. 7, 1995;—Am. 1999, Act 1, Imd. Eff. Feb. 25, 1999;—Am. 1999, Act 6, Imd. Eff. Feb. 25, 1999;—Am. 2007, Act 94, Imd. Eff. Oct. 1, 2007;—Am. 2011, Act 38, Eff. Oct. 1, 2011;—Am. 2012, Act 223, Imd. Eff. June 29, 2012;—Am. 2015, Act 180, Imd. Eff. Nov. 10, 2015;—Am. Rendered Thursday, February 28, 2019

2016, Act 266, Imd. Eff. June 28, 2016.

**Compiler's note:** Section 4 of Act 76 of 1971 provides:

**"Expiration of act; conditions.**

"Section 4. The provisions of this amendatory act shall expire August 1, 1972 unless prior thereto the legislature has submitted to the electors constitutional amendments which shall (a) grant property tax relief by limiting of levying of more than 10 mills on property for school operational purposes, (b) permit the legislature to enact taxes on income graduated either as to rate or base or both, or (c) a combination of (a) and (b) as one amendment and (a) as a separate amendment and which said amendments shall be voted upon at a special election to be held on November 2, 1971 or at the general election to be held November 1972."

The legislature did not submit to the electors at a November 2, 1971 special election or at the November, 1972 general election proposed constitutional amendment(s) to effect the purposes enumerated in Section 4 of Act 76 of 1971.

Section 51 of Act 250 of 1978, purporting to amend this section, was submitted to and disapproved by the people as part of Proposal E at the general election held on November 4, 1980.

Section 2 of Act 15 of 1983 provides:

**"Legislative finding and purpose.**

"Section 2. Because a severe economic recession has caused an actual deficit in state funds, the legislature finds that this amendatory act is necessary to, and it is the purpose of this amendatory act to, meet the actual deficiencies existing in state funds at the time of this enactment."

**206.51a Repealed. 2011, Act 38 Eff. Jan. 1, 2012.**

**Compiler's note:** The repealed section pertained to calculation of tax, filing annual return, statute of limitations, and enforcement.

**206.51b Repealed. 2000, Act 40, Imd. Eff. Mar. 27, 2000.**

**Compiler's note:** The repealed section pertained to income tax rate other than corporation and its levy and imposition.

**206.51c Repealed. 2007, Act 94, Imd. Eff. Oct. 1, 2007.**

**Compiler's note:** The repealed section pertained to income tax rates other than for corporations.

**206.51d Additional distribution; credit to Michigan transportation fund; disbursements; amounts; dates.**

Sec. 51d. In addition to the distribution under section 51(2), the following amounts of revenue collected from the tax levied under section 51 shall be deposited into the state treasury to the credit of the Michigan transportation fund created in section 10 of 1951 PA 51, MCL 247.660, and disbursed as provided in section 10(1)(k) of 1951 PA 51, MCL 247.660:

- (a) Beginning October 1, 2018 through September 30, 2019, \$150,000,000.00.
- (b) Beginning October 1, 2019 through September 30, 2020, \$325,000,000.00.
- (c) Beginning October 1, 2020 and each October 1 thereafter, \$600,000,000.00.

**History:** Add. 2015, Act 179, Eff. Mar. 18, 2016.

**Compiler's note:** Former MCL 206.51d, which pertained to income tax rates other than for corporations, was repealed by Act 94 of 2007, Imd. Eff. Oct. 1, 2007.

**206.51e Deposit of revenue into state brownfield redevelopment fund; definitions.**

Sec. 51e. In addition to the distribution under sections 51 and 51d, from the revenue collected from the tax levied under section 51 an amount equal to the construction period tax capture revenues, withholding tax capture revenues, and income tax capture revenues due to be transmitted under all transformational brownfield plans adopted under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, shall be deposited each state fiscal year into the state brownfield redevelopment fund created in section 8a of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2658a. As used in this section, "construction period tax capture revenues", "income tax capture revenues", and "withholding tax capture revenues" mean those terms as defined in section 2 of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2652.

**History:** Add. 2017, Act 47, Eff. July 24, 2017.

**Compiler's note:** Former MCL 206.51e, which pertained to income tax rates other than for corporations, was repealed by Act 94 of 2007, Imd. Eff. Oct. 1, 2007.

**206.51f Payment under MCL 125.2090g to 125.2090j; deposit into good jobs for Michigan fund; definitions.**

Sec. 51f. (1) In addition to the distributions under sections 51 and 51d, from the revenue collected from the tax levied under section 51 an amount equal to that portion of the withholding tax capture revenues attributable to certified new jobs and due to be paid to an authorized business pursuant to a written agreement entered into under chapter 8D of the Michigan strategic fund act, 1984 PA 270, MCL 125.2090g to 125.2090j, shall be deposited each state fiscal year into the good jobs for Michigan fund created in section 90j of the Michigan strategic fund act, 1984 PA 270, MCL 125.2090j.

(2) As used in this section, "authorized business", "certified new jobs", "withholding tax capture revenues", and "written agreement" mean those terms as defined in section 90g of the Michigan strategic fund act, 1984 PA 270, MCL 125.2090g.

**History:** Add. 2017, Act 110, Eff. Aug. 25, 2017.

#### **206.52 Exemption.**

Sec. 52. A person with respect to whom a deduction is allowable to another taxpayer during the tax year is not considered to have an allowable exemption for purposes of section 30(2) and, notwithstanding sections 51 and 315, if that person has an adjusted gross income for that tax year of \$1,500.00 or less, is exempt from the tax levied and imposed in section 51 and is not required to file a return under this part.

**History:** Add. 1988, Act 1, Imd. Eff. Jan. 22, 1988;—Am. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2018, Act 38, Imd. Eff. Feb. 28, 2018.

#### **206.61-206.81 Repealed. 1975, Act 233, Imd. Eff. Aug. 27, 1975.**

**Compiler's note:** The repealed sections pertained to taxes imposed on corporations, financial institutions, and unincorporated organizations.

#### **206.91 Common trust funds and participants; taxable status.**

Sec. 91. (1) A common trust fund meeting the requirements of section 584 of the internal revenue code, shall not be subject to tax under this part.

(2) Each participant in the common trust fund shall, under rules prescribed by the department, include its proportionate share of the taxable income whether or not distributed and whether or not distributable.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

### CHAPTER 3

#### **206.101 Repealed. 1970, Act 140, Imd. Eff. Aug. 1, 1970.**

**Compiler's note:** The repealed section pertained to taxable income attributable to Michigan.

#### **206.102 Income producing activities solely in state.**

Sec. 102. In the case of taxable income of a taxpayer whose income-producing activities are confined solely to this state, the entire taxable income of such taxpayer shall be allocated to this state, except as otherwise expressly provided in this part.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

#### **206.103 Taxable income partly attributable to state.**

Sec. 103. Any taxpayer having income from business activity which is taxable both within and without this state, other than the rendering of purely personal services by an individual, shall allocate and apportion his net income as provided in this part.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1970, Act 140, Imd. Eff. Aug. 1, 1970;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

#### **206.105 Allocation and apportionment of business income taxable in another state.**

Sec. 105. For purposes of allocation and apportionment of income from business activity under this part, a taxpayer is taxable in another state if (a) in that state he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business or a corporate stock tax, or (b) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

#### **206.110 Taxable income of individuals, estates, or trusts; definitions; allocation; rents and royalties.**

Sec. 110. (1) For a resident individual, estate, or trust, all taxable income from any source whatsoever, except that attributable to another state under sections 111 to 115 and subject to section 255, is allocated to this state.

(2) For a nonresident individual, estate, or trust, all taxable income is allocated to this state to the extent it is earned, received, or acquired in 1 or more of the following ways:

(a) For the rendition of personal services performed in this state.

(b) As a distributive share of the net profits of a business, profession, enterprise, undertaking, or other activity as the result of work done, services rendered, or other business activities conducted in this state,

except as allocated to another state pursuant to sections 111 to 114 and subject to section 256.

(c) For tax years beginning after 1996, as a prize won by the taxpayer under the McCauley-Traxler-Law-Bowman-McNeely lottery act, 1972 PA 239, MCL 432.1 to 432.47.

(d) As winnings that are proceeds of a wagering transaction paid on or after October 1, 2003 by a casino or as a payoff price on a winning ticket that is the result of pari-mutuel wagering at a licensed race meeting if the casino or licensed race meeting is located in this state. As used in this subdivision:

(i) "Casino" means a casino regulated by this state under the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226, or a building on Native American land or land held in trust by the United States for a federally recognized Indian tribe on which gaming is conducted under the Indian gaming regulatory act, Public Law 100-497, 102 Stat 2467.

(ii) "Pari-mutuel wagering" and "licensed race meeting" mean those terms as used in the horse racing law of 1995, 1995 PA 279, MCL 431.301 to 431.336.

(3) The respective shares of a nonresident estate or trust and its beneficiaries, including, solely for purposes of allocation, resident and nonresident beneficiaries, in the income attributable to this state shall be in proportion to the respective shares of distributable net income of the beneficiaries under the internal revenue code. If the estate or trust has no distributable net income for the tax year, the share of each beneficiary in the income attributable to this state shall be in proportion to his or her share of the estate or trust income for that year, under local law or the terms of the instrument, that is required to be distributed currently and other amounts of the income distributed in the year. Any balance of the income attributable to this state shall be allocated to the estate or trust.

(4) Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute a nonbusiness income, shall be allocated as provided in sections 111 to 114.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1990, Act 283, Imd. Eff. Dec. 14, 1990;—Am. 1996, Act 484, Eff. Jan. 1, 1997;—Am. 2003, Act 21, Imd. Eff. June 24, 2003;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

#### **206.111 Rents and royalties; allocation.**

Sec. 111. (1) Net rents and royalties from real property located in this state are allocable to this state.

(2) Net rents and royalties from tangible personal property are allocable to this state:

(a) If and to the extent that the property is utilized in this state; or

(b) In their entirety if the taxpayer is a resident partnership, estate or trust or individual of this state or has a commercial domicile in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(3) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969.

#### **206.112 Capital gains and losses.**

Sec. 112. (1) Capital gains and losses from sales or exchanges of real property located in this state are allocable to this state.

(2) Capital gains and losses from sales or exchanges of tangible personal property are allocable to this state if:

(a) The property had a situs in this state at the time of the sale; or

(b) The taxpayer is a resident partnership, estate or trust or individual of this state or has a commercial domicile in this state and the taxpayer is not taxable in the state in which the property had a situs.

(3) Capital gains and losses from sales or exchanges of intangible personal property are allocable to this state if the taxpayer is a resident partnership, estate or trust or individual of this state or has a commercial domicile in this state.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969.

#### **206.113 Interest and dividends; allocation.**

Sec. 113. Interest and dividends are allocable to this state if the taxpayer is a resident partnership, estate or trust or individual of this state or has a commercial domicile in this state.



**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969.

#### **206.114 Patent and copyright royalties; allocation.**

Sec. 114. (1) Patent and copyright royalties are allocable to this state:

(a) If and to the extent that the patent or copyright is utilized by the payer in this state; or

(b) If and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer is a resident partnership, estate or trust or individual of this state or has a commercial domicile in this state.

(2) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in this state if the taxpayer is a resident partnership, estate or trust or individual or has a commercial domicile in this state.

(3) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in this state if the taxpayer is a resident partnership, estate or trust or individual or has a commercial domicile in this state.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969.

#### **206.115 Apportionment of business income; exception; calculation.**

Sec. 115. (1) Before January 1, 2012, all business income, other than income from transportation services, shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is 3.

(2) After December 31, 2011, all business income, other than income from transportation services, shall be apportioned to this state by multiplying the income by the sales factor calculated under section 121.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975;—Am. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 178, Eff. Jan. 1, 2012.

#### **206.116-206.120 Repealed. 2011, Act 38, Eff. Jan. 1, 2012.**

**Compiler's note:** The repealed sections pertained to property factor, rental rate, average property value, determination of payroll factor, and determination of compensation paid in state.

#### **206.121 Sales factor; determination.**

Sec. 121. The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

**History:** 1967, Act 281, Eff. Oct. 1, 1967.

#### **206.122 Sales of tangible personalty within Michigan.**

Sec. 122. Sales of tangible personal property are in this state if:

(a) The property is delivered or shipped to a purchaser, other than the United States government, within this state regardless of the f.o.b. point or other conditions of the sale; or

(b) The property is shipped from an office, store, warehouse, factory or other place of storage in this state and (i) the purchaser is the United States government or (ii) the taxpayer is not taxable in the state of the purchaser.

**History:** 1967, Act 281, Eff. Oct. 1, 1967.

#### **206.123 Sales other than sales of tangible personalty within state.**

Sec. 123. Sales, other than sales of tangible personal property, are in this state if:

(a) The income-producing activity is performed in this state; or

(b) The income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than outside this state, based on costs of performance.

**History:** 1967, Act 281, Eff. Oct. 1, 1967.

#### **206.125 Repealed. 1975, Act 233, Imd. Eff. Aug. 27, 1975.**

**Compiler's note:** The repealed section pertained to taxable income of domestic insurers.

#### **206.131 Transportation services; sections applicable.**

Sec. 131. The taxable income of a taxpayer whose income-producing activities consist of transportation services rendered partly within and partly without the state shall be determined under the provisions of

sections 132 to 134.

**History:** 1967, Act 281, Eff. Oct. 1, 1967.

**206.132 Transportation other than of oil or gas by pipeline; revenue mile; taxable income.**

Sec. 132. In the case of taxable income other than that derived from the transportation of oil or gas by pipeline, that portion of the net income of the taxpayer derived from transportation services wherever performed that the revenue miles of the taxpayer in Michigan bear to the revenue miles of the taxpayer everywhere. A revenue mile means the transportation for a consideration of 1 net ton in weight or 1 passenger the distance of 1 mile. The taxable income attributable to Michigan sources in the case of a taxpayer engaged in the transportation both of property and of individuals shall be that portion of the entire net income of the taxpayer which is equal to the average of his passenger miles and ton mile fractions, separately computed and individually weighted by the ratio of gross receipts from passenger transportation to total gross receipts from all transportation, and by the ratio of gross receipts from freight transportation to total gross receipts from all transportation, respectively. If it is shown to the satisfaction of the department that the foregoing information is not available or cannot be obtained without unreasonable expense to the taxpayer, the commissioner may use such other data which may be available and which in the opinion of the department will result in an equitable allocation of such receipts to this state.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

**206.133 Transportation of oil by pipeline; taxable income.**

Sec. 133. In the case of taxable income derived from the transportation of oil by pipeline, that portion of the net income of the taxpayer derived from the pipeline transportation of oil everywhere that the barrel miles transported in Michigan bear to the barrel miles transported by the taxpayer everywhere.

**History:** 1967, Act 281, Eff. Oct. 1, 1967.

**206.134 Transportation of gas by pipeline; taxable income.**

Sec. 134. In the case of taxable income derived from the transportation of gas by pipeline, net income attributable to Michigan shall be that portion of the taxable income of the taxpayer derived from the pipeline transportation of gas everywhere that the thousand cubic feet miles transported in Michigan bear to the thousand cubic feet miles transported by the taxpayer everywhere.

**History:** 1967, Act 281, Eff. Oct. 1, 1967.

**206.151 Repealed. 1975, Act 233, Imd. Eff. Aug. 27, 1975.**

**Compiler's note:** The repealed section pertained to taxable income of financial organizations.

**206.191 Sales not exceeding \$100,000; taxable income.**

Sec. 191. (1) If the taxpayer's only activities within this state consist of sales and do not include owning or renting real estate or tangible personal property and whose dollar volume of gross sales made during the tax year within the state is not in excess of \$100,000.00 the taxpayer may elect for that year:

(a) To report and pay a tax on net income arrived at by multiplying total sales in this state for the taxable year by the ratio of net income from operations to total sales as reported on his federal income tax return for the same taxable year; or

(b) Report and pay a tax of 2/5 of 1% on total sales in this state, whichever method reflects the lesser tax liability.

(2) The election is not available for any taxable year for which a consolidated return is required.

**History:** 1967, Act 281, Eff. Oct. 1, 1967.

**206.195 Alternative methods of allocation and apportionment; approval.**

Sec. 195. (1) If the allocation and apportionment provisions of this part do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the department may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(a) Separate accounting;

(b) The inclusion of 1 or more additional factors which will fairly represent the taxpayer's business activity in this state.

(c) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's taxable income.

(2) An alternative method will be effective only with approval by the department.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

## CHAPTER 4

### **206.201 Exemption of persons exempt from federal income tax; exceptions.**

Sec. 201. (1) A person who is exempt from federal income tax pursuant to the provisions of the internal revenue code shall be exempt from the tax imposed by this part except the unrelated taxable business income of an exempt person as determined under the internal revenue code.

(2) Nothing in this section shall exempt a person from the withholding and information return provisions of this part.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

### **206.211, 206.221 Repealed. 1975, Act 233, Imd. Eff. Aug. 27, 1975.**

**Compiler's note:** The repealed sections pertained to exemptions for foreign or alien insurers and for nonresident financial institutions.

## CHAPTER 5

### **206.251 Credit for taxes withheld; election to treat as total tax.**

Sec. 251. (1) The amount withheld under section 703 shall be allowed to the recipient of the compensation as a credit against the tax imposed on him or her by this part.

(2) The amount so withheld during any calendar year shall be allowed as a credit for the taxable year beginning in such calendar year. If more than 1 taxable year begins in a calendar year, such amount shall be allowed as a credit for the last taxable year so beginning.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 174, Eff. Jan. 1, 2012.

### **206.252, 206.253 Repealed. 2011, Act 38, Eff. Jan. 1, 2012.**

**Compiler's note:** The repealed sections pertained to Headlee amendment refund and tax credit relating to purchase and installation of qualified home improvement.

### **206.255 Credit for tax imposed by another state, District of Columbia, or Canadian province; allowance of Canadian provincial credit; maximum credit.**

Sec. 255. (1) A resident individual or resident estate or trust is allowed a credit against the tax due under this part for the amount of an income tax imposed on the resident individual or resident estate or trust for the tax year by another state of the United States, a political subdivision of another state of the United States, the District of Columbia, or a Canadian province, on income derived from sources outside this state that is also subject to tax under this part or the amount determined under subsection (3), whichever is less. For purposes of the Canadian provincial credit, the credit is allowed for only that portion of the provincial tax not claimed as a credit for federal income tax purposes. It is presumed that the Canadian federal income tax is claimed first. The provincial tax claimed as a carryover deduction as provided in the internal revenue code is not allowed as a credit under this section.

(2) The Canadian provincial credit shall be allowed for the 1978 tax year and for each tax year after 1978.

(3) The credit under this section shall not exceed an amount determined by dividing income that is subject to taxation both in this state and in another jurisdiction by taxable income and then multiplying that result by the taxpayer's tax liability before any credits are deducted.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1978, Act 589, Imd. Eff. Jan. 4, 1979;—Am. 1979, Act 30, Imd. Eff. June 14, 1979;—Am. 1982, Act 515, Imd. Eff. Dec. 31, 1982;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987;—Am. 1996, Act 484, Eff. Jan. 1, 1997;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

**Compiler's note:** Section 2 of Act 515 of 1982 provides: "(1) Section 255 of this amendatory act shall be effective for the 1979 tax year and each tax year thereafter.

(2) Section 301 of this amendatory act shall take effect for tax years beginning on or after January 1, 1983.

(3) Section 520 of this amendatory act shall take effect for tax years beginning on or after January 1, 1981."

### **206.256 Tax exemption in other states by nonresidents; reciprocal agreement.**

Sec. 256. For a nonresident individual, estate, or trust, if the laws of the state of residence exempt a resident of this state from liability for the payment of income taxes on income earned for personal services performed in that state, the department may enter into a reciprocal agreement with that state to provide a similar tax exemption for that state's residents on income earned for personal services performed in this state.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1996, Act 484, Eff. Jan. 1, 1997;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

**206.257 Repealed. 2011, Act 38, Eff. Jan. 1, 2012.**

**Compiler's note:** The repealed section pertained to tax credit for city income taxes.

**206.258 Repealed. 1975, Act 233, Imd. Eff. Aug. 27, 1975.**

**Compiler's note:** The repealed section pertained to credit for personal property taxes paid on inventories.

**206.260, 206.261 Repealed. 2011, Act 38, Eff. Jan. 1, 2012.**

**Compiler's note:** The repealed sections pertained to tax credit for certain charitable contributions and to certain community foundations.

**206.262 Repealed. 1996, Act 484, Eff. Jan. 1, 1997.**

**Compiler's note:** The repealed section pertained to tax credits for solar, wind, or water energy conversion devices.

**206.263 Repealed. 1996, Act 484, Eff. Jan. 1, 1996.**

**Compiler's note:** The repealed section pertained to agricultural products gleaned from agricultural property.

**206.264 Repealed. 2011, Act 38, Eff. Jan. 1, 2012.**

**Compiler's note:** The repealed section pertained to tax credit for contribution to medical care savings account.

**206.265 Credit against tax; determining amount; eligibility; limitation; refund.**

Sec. 265. (1) For the 1989 tax year and each tax year after 1989, a taxpayer may credit against the tax imposed by this part for the tax year an amount equal to the tax paid in any prior tax year attributable to income received by the taxpayer in any prior tax year and repaid by the taxpayer during the tax year if the taxpayer is eligible for a deduction or credit against his or her federal tax liability pursuant to section 1341 of the internal revenue code based on the repayment for the tax year. A credit under this section for a tax year is allowed only if the repayment for which a deduction or credit was taken pursuant to section 1341 of the internal revenue code is not deducted in calculating the taxpayer's adjusted gross income for the tax year.

(2) If the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability shall be refunded.

**History:** Add. 1993, Act 128, Imd. Eff. July 22, 1993;—Am. 1998, Act 19, Imd. Eff. Mar. 12, 1998;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

**Compiler's note:** Enacting section 1 of Act 19 of 1998 provides:  
"This amendatory act is effective for tax years beginning after 1988."

**206.266 Rehabilitation of historic resource; tax credit; plan; certification; revocation of certificate or sale of historic resource; rules; report; definitions.**

Sec. 266. (1) A qualified taxpayer with a rehabilitation plan certified after December 31, 1998 and before January 1, 2012 may credit against the tax imposed by this part the amount determined pursuant to subsection (2) for the qualified expenditures for the rehabilitation of a historic resource pursuant to the rehabilitation plan in the year in which the certification of completed rehabilitation of the historic resource is issued. Only those expenditures that are paid or incurred during the time periods prescribed for the credit under section 47(a)(2) of the internal revenue code and any related treasury regulations shall be considered qualified expenditures.

(2) The credit allowed under this section shall be 25% of the qualified expenditures that are eligible, or would have been eligible except that the taxpayer elected to transfer the credit under subsection (12), for the credit under section 47(a)(2) of the internal revenue code if the taxpayer is eligible for the credit under section 47(a)(2) of the internal revenue code or, if the taxpayer is not eligible for the credit under section 47(a)(2) of the internal revenue code, 25% of the qualified expenditures that would qualify under section 47(a)(2) of the internal revenue code except that the expenditures are made to a historic resource that is not eligible for the credit under section 47(a)(2) of the internal revenue code, subject to both of the following:

(a) A taxpayer with qualified expenditures that are eligible for the credit under section 47(a)(2) of the internal revenue code may not claim a credit under this section for those qualified expenditures unless the taxpayer has claimed and received a credit for those qualified expenditures under section 47(a)(2) of the internal revenue code or the taxpayer has elected to transfer the credit under subsection (12).

(b) A credit under this section shall be reduced by the amount of a credit received by the taxpayer for the same qualified expenditures under section 47(a)(2) of the internal revenue code.

(3) To be eligible for the credit under this section, the taxpayer shall apply to and receive from the Michigan state housing development authority that the historic significance, the rehabilitation plan, and the completed rehabilitation of the historic resource meet the criteria under subsection (6) and either of the following:

- (a) All of the following criteria:
- (i) The historic resource contributes to the significance of the historic district in which it is located.
  - (ii) Both the rehabilitation plan and completed rehabilitation of the historic resource meet the federal secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, 36 CFR part 67.
  - (iii) All rehabilitation work has been done to or within the walls, boundaries, or structures of the historic resource or to historic resources located within the property boundaries of the resource.
- (b) The taxpayer has received certification from the national park service that the historic resource's significance, the rehabilitation plan, and the completed rehabilitation qualify for the credit allowed under section 47(a)(2) of the internal revenue code.
- (4) If a qualified taxpayer is eligible for the credit allowed under section 47(a)(2) of the internal revenue code, the qualified taxpayer shall file for certification with the authority to qualify for the credit allowed under section 47(a)(2) of the internal revenue code. If the qualified taxpayer has previously filed for certification with the authority to qualify for the credit allowed under section 47(a)(2) of the internal revenue code, additional filing for the credit allowed under this section is not required.
- (5) The authority may inspect a historic resource at any time during the rehabilitation process and may revoke certification of completed rehabilitation if the rehabilitation was not undertaken as represented in the rehabilitation plan or if unapproved alterations to the completed rehabilitation are made during the 5 years after the tax year in which the credit was claimed. The authority shall promptly notify the department of a revocation.
- (6) Qualified expenditures for the rehabilitation of a historic resource may be used to calculate the credit under this section if the historic resource meets 1 of the criteria listed in subdivision (a) and 1 of the criteria listed in subdivision (b):
- (a) The resource is 1 of the following during the tax year in which a credit under this section is claimed for those qualified expenditures:
    - (i) Individually listed on the national register of historic places or state register of historic sites.
    - (ii) A contributing resource located within a historic district listed on the national register of historic places or the state register of historic sites.
    - (iii) A contributing resource located within a historic district designated by a local unit pursuant to an ordinance adopted under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215.
  - (b) The resource meets 1 of the following criteria during the tax year in which a credit under this section is claimed for those qualified expenditures:
    - (i) The historic resource is located in a designated historic district in a local unit of government with an existing ordinance under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215.
    - (ii) The historic resource is located in an incorporated local unit of government that does not have an ordinance under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215, and has a population of less than 5,000.
    - (iii) The historic resource is located in an unincorporated local unit of government.
    - (iv) The historic resource is located in an incorporated local unit of government that does not have an ordinance under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215, and is located within the boundaries of an association that has been chartered under 1889 PA 39, MCL 455.51 to 455.72.
    - (v) The historic resource is subject to a historic preservation easement.
- (7) A credit amount assigned under section 39c(7) of former 1975 PA 228 or section 435 of the Michigan business tax act, 2007 PA 36, MCL 208.1435, may be claimed against the partner's, member's, or shareholder's tax liability under this part as provided in section 39c(7) of former 1975 PA 228 or section 435 of the Michigan business tax act, 2007 PA 36, MCL 208.1435.
- (8) If the credit allowed under this section for the tax year and any unused carryforward of the credit allowed by this section exceed the taxpayer's tax liability for the tax year, that portion that exceeds the tax liability for the tax year shall not be refunded but may be carried forward to offset tax liability in subsequent tax years for 10 years or until used up, whichever occurs first. For projects for which a certificate of completed rehabilitation is issued for a tax year beginning after December 31, 2008 and for which the credit amount allowed is less than \$250,000.00, a qualified taxpayer may elect to forgo the carryover period and receive a refund of the amount of the credit that exceeds the qualified taxpayer's tax liability. The amount of the refund shall be equal to 90% of the amount of the credit that exceeds the qualified taxpayer's tax liability. An election under this subsection shall be made in the year that a certificate of completed rehabilitation is issued and shall be irrevocable.
- (9) For tax years beginning before January 1, 2009, if a taxpayer sells a historic resource for which a credit under this section was claimed less than 5 years after the year in which the credit was claimed, the following

percentage of the credit amount previously claimed relative to that historic resource shall be added back to the tax liability of the taxpayer in the year of the sale:

- (a) If the sale is less than 1 year after the year in which the credit was claimed, 100%.
- (b) If the sale is at least 1 year but less than 2 years after the year in which the credit was claimed, 80%.
- (c) If the sale is at least 2 years but less than 3 years after the year in which the credit was claimed, 60%.
- (d) If the sale is at least 3 years but less than 4 years after the year in which the credit was claimed, 40%.
- (e) If the sale is at least 4 years but less than 5 years after the year in which the credit was claimed, 20%.
- (f) If the sale is 5 years or more after the year in which the credit was claimed, an addback to the taxpayer's tax liability shall not be made.

(10) For tax years beginning before January 1, 2009, if a certification of completed rehabilitation is revoked under subsection (5) less than 5 years after the year in which a credit was claimed, the following percentage of the credit amount previously claimed relative to that historic resource shall be added back to the tax liability of the taxpayer in the year of the revocation:

- (a) If the revocation is less than 1 year after the year in which the credit was claimed, 100%.
- (b) If the revocation is at least 1 year but less than 2 years after the year in which the credit was claimed, 80%.
- (c) If the revocation is at least 2 years but less than 3 years after the year in which the credit was claimed, 60%.
- (d) If the revocation is at least 3 years but less than 4 years after the year in which the credit was claimed, 40%.
- (e) If the revocation is at least 4 years but less than 5 years after the year in which the credit was claimed, 20%.
- (f) If the revocation is 5 years or more after the year in which the credit was claimed, an addback to the taxpayer's tax liability shall not be made.

(11) For tax years beginning after December 31, 2008, if a certificate of completed rehabilitation is revoked under subsection (5) or if the historic resource is sold or disposed of less than 5 years after being placed in service as defined in section 47(b)(1) of the internal revenue code and related treasury regulations, the following percentage of the credit amount previously claimed relative to that historic resource shall be added back to the tax liability of the qualified taxpayer that received the certificate of completed rehabilitation and not the assignee in the year of the revocation:

- (a) If the revocation is less than 1 year after the historic resource is placed in service, 100%.
- (b) If the revocation is at least 1 year but less than 2 years after the historic resource is placed in service, 80%.
- (c) If the revocation is at least 2 years but less than 3 years after the historic resource is placed in service, 60%.
- (d) If the revocation is at least 3 years but less than 4 years after the historic resource is placed in service, 40%.
- (e) If the revocation is at least 4 years but less than 5 years after the historic resource is placed in service, 20%.
- (f) If the revocation is at least 5 years or more after the historic resource is placed in service, an addback to the qualified taxpayer tax liability shall not be required.

(12) A qualified taxpayer who receives a certificate of completed rehabilitation after December 31, 2008 may elect to forgo claiming the credit and transfer the credit along with the ownership of the property for which the credit may be claimed to a new owner. The new owner shall be treated as the qualified taxpayer having incurred the rehabilitation costs and shall be subject to the recapture provisions under subsection (11) if the new owner sells or disposes of the property within 5 years after the new owner acquired the property. For purposes of this subsection and subsection (11), the placed in service date for a new owner is the date the new owner acquired the property for which the credit is claimed.

(13) The authority may impose a fee to cover the administrative cost of implementing the program under this section.

(14) The qualified taxpayer shall attach all of the following to the qualified taxpayer's annual return under this part:

- (a) Certification of completed rehabilitation.
- (b) Certification of historic significance related to the historic resource and the qualified expenditures used to claim a credit under this section.
- (c) A completed assignment form if the qualified taxpayer is an assignee under section 39c of former 1975 PA 228 or section 435 of the Michigan business tax act, 2007 PA 36, MCL 208.1435, of any portion of a credit allowed under that section.

(15) The authority may promulgate rules to implement this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(16) The total of the credits claimed under this section and section 39c of former 1975 PA 228 or section 435 of the Michigan business tax act, 2007 PA 36, MCL 208.1435, for a rehabilitation project shall not exceed 25% of the total qualified expenditures eligible for the credit under this section for that rehabilitation project.

(17) The authority shall report all of the following to the legislature annually for the immediately preceding state fiscal year:

- (a) The fee schedule used by the center and the total amount of fees collected.
- (b) A description of each rehabilitation project certified.
- (c) The location of each new and ongoing rehabilitation project.

(18) As used in this section:

(a) "Contributing resource" means a historic resource that contributes to the significance of the historic district in which it is located.

(b) "Historic district" means an area, or group of areas not necessarily having contiguous boundaries, that contains 1 resource or a group of resources that are related by history, architecture, archaeology, engineering, or culture.

(c) "Historic resource" means a publicly or privately owned historic building, structure, site, object, feature, or open space located within a historic district designated by the national register of historic places, the state register of historic sites, or a local unit acting under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215; or that is individually listed on the state register of historic sites or national register of historic places and includes all of the following:

(i) An owner-occupied personal residence or a historic resource located within the property boundaries of that personal residence.

(ii) An income-producing commercial, industrial, or residential resource or a historic resource located within the property boundaries of that resource.

(iii) A resource owned by a governmental body, nonprofit organization, or tax-exempt entity that is used primarily by a taxpayer lessee in a trade or business unrelated to the governmental body, nonprofit organization, or tax-exempt entity and that is subject to tax under this part.

(iv) A resource that is occupied or utilized by a governmental body, nonprofit organization, or tax-exempt entity pursuant to a long-term lease or lease with option to buy agreement.

(v) Any other resource that could benefit from rehabilitation.

(d) "Local unit" means a county, city, village, or township.

(e) "Long-term lease" means a lease term of at least 27.5 years for a residential resource or at least 31.5 years for a nonresidential resource.

(f) "Michigan state housing development authority" or "authority" means the public body corporate and politic created by section 21 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1421.

(g) "Open space" means undeveloped land, a naturally landscaped area, or a formal or man-made landscaped area that provides a connective link or a buffer between other resources.

(h) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(i) "Qualified expenditures" means capital expenditures that qualify, or would qualify except that the taxpayer elected to transfer the credit under subsection (12), for a rehabilitation credit under section 47(a)(2) of the internal revenue code if the taxpayer is eligible for the credit under section 47(a)(2) of the internal revenue code or, if the taxpayer is not eligible for the credit under section 47(a)(2) of the internal revenue code, the qualified expenditures that would qualify under section 47(a)(2) of the internal revenue code except that the expenditures are made to a historic resource that is not eligible for the credit under section 47(a)(2) of the internal revenue code, that were paid. Qualified expenditures do not include capital expenditures for nonhistoric additions to a historic resource except an addition that is required by state or federal regulations that relate to historic preservation, safety, or accessibility.

(j) "Qualified taxpayer" means a person that is an assignee under section 39c of former 1975 PA 228 or section 435 of the Michigan business tax act, 2007 PA 36, MCL 208.1435, or either owns the resource to be rehabilitated or has a long-term lease agreement with the owner of the historic resource and that has qualified expenditures for the rehabilitation of the historic resource equal to or greater than 10% of the state equalized valuation of the property. If the historic resource to be rehabilitated is a portion of a historic or nonhistoric resource, the state equalized valuation of only that portion of the property shall be used for purposes of this subdivision. If the assessor for the local tax collecting unit in which the historic resource is located determines

the state equalized valuation of that portion, that assessor's determination shall be used for purposes of this subdivision. If the assessor does not determine that state equalized valuation of that portion, qualified expenditures, for purposes of this subdivision, shall be equal to or greater than 5% of the appraised value as determined by a certified appraiser. If the historic resource to be rehabilitated does not have a state equalized valuation, qualified expenditures for purposes of this subdivision shall be equal to or greater than 5% of the appraised value of the resource as determined by a certified appraiser.

(k) "Rehabilitation plan" means a plan for the rehabilitation of a historic resource that meets the federal secretary of the interior's standards for rehabilitation and guidelines for rehabilitation of historic buildings under 36 CFR part 67.

**History:** Add. 1998, Act 535, Imd. Eff. Jan. 19, 1999;—Am. 1999, Act 214, Imd. Eff. Dec. 28, 1999;—Am. 2001, Act 70, Imd. Eff. July 24, 2001;—Am. 2006, Act 52, Imd. Eff. Mar. 9, 2006;—Am. 2007, Act 94, Imd. Eff. Oct. 1, 2007;—Am. 2008, Act 447, Imd. Eff. Jan. 9, 2009;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

**Compiler's note:** Enacting section 1 of Act 52 of 2006 provides:

"Enacting section 1. This amendatory act is effective for tax years that begin after December 31, 2004."

For transfer of powers and duties of department of history, arts, and libraries or the Michigan historical center relating to the identification, certification, and preservation of historical sites to the Michigan state housing development authority, see E.R.O. No. 2009-26, compiled at MCL 399.752.

**Administrative rules:** R 206.151 et seq. of the Michigan Administrative Code.

## **206.267-206.269 Repealed. 2011, Act 38, Eff. Jan. 1, 2012.**

**Compiler's note:** The repealed sections pertained to tax credit after December 31, 2000, tax exemption for qualified adoption expenses, and tax credit for donated automobiles.

## **206.270 Tax voucher certificate; definitions.**

Sec. 270. (1) For tax years that begin after December 31, 2008, a taxpayer to whom a tax voucher certificate is issued under an agreement entered into before January 1, 2012 or a taxpayer that is the transferee of a tax voucher certificate that is issued under an agreement entered into before January 1, 2012 may use the tax voucher certificate to pay any liability of the taxpayer under section 51 or to pay any amount owed by the taxpayer under section 351.

(2) A tax voucher certificate shall be used for the purposes allowed under subsection (1) and only in a tax year that begins after December 31, 2008.

(3) The amount of the tax voucher that may be used to pay a liability due under this part in any tax year shall not exceed the lesser of the following:

- (a) The amount of the tax voucher stated in the tax voucher certificate held by the taxpayer.
- (b) The amount authorized to be used in the tax year under the terms of the tax voucher certificate.
- (c) The taxpayer's liability under this part for the tax year for which the tax voucher is used.

(4) If the amount of any tax voucher certificate held by a taxpayer or transferee exceeds the amount the taxpayer may use under subsection (3)(b) or (c) in a tax year, that excess may be used by the taxpayer or transferee to pay, subject to the limitations of subsection (3), any future liability of the taxpayer or transferee under this part.

(5) The tax voucher certificate, and any completed transfer form that was issued pursuant to the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263, shall be attached to the annual return under this part. The department may prescribe and implement alternative methods of reporting and recording ownership, transfer, and utilization of tax voucher certificates that are not inconsistent with the provisions of this act. The department shall administer this section to assure that any amount of a tax voucher certificate used to pay any liability under this part shall not also be applied to pay any liability of the taxpayer or any other person under the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601. The department shall take any action necessary to enforce and effectuate the permissible issuance and use of tax voucher certificates in a manner authorized under this section and the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263.

(6) As used in this section:

(a) "Certificate" or "tax voucher certificate" means the tax voucher certificate issued under section 23 of the Michigan early stage venture capital investment act of 2003, 2003 PA 296, MCL 125.2253, or any replacement tax voucher certificate issued under former section 37e(9)(b) or (d) of the single business tax act, 1975 PA 228, or section 419 of the Michigan business tax act, 2007 PA 36, MCL 208.1419.

(b) "Transferee" means a taxpayer to whom a tax voucher certificate has been transferred under section 23 of the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2253, and former section 37e of the single business tax act, 1975 PA 228, or section 419 of the Michigan business tax act, 2007 PA 36, MCL 208.1419.



**History:** Add. 2003, Act 295, Imd. Eff. Jan. 8, 2004;—Am. 2005, Act 234, Imd. Eff. Nov. 21, 2005;—Am. 2007, Act 94, Imd. Eff. Oct. 1, 2007;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

**Compiler's note:** In subsection (6)(a), the reference to the "Michigan early stage venture capital investment act of 2003" evidently should read "Michigan early stage venture investment act of 2003."

#### **206.271 Recomputation of taxable income by excluding proportional gain or loss on disposition of property.**

Sec. 271. (1) A taxpayer subject to the tax levied by section 51 and whose income received after September 30, 1967 is increased or diminished by the disposition of property acquired before October 1, 1967, which is described in and subject to subchapter P of the internal revenue code, may elect to recompute taxable income by excluding therefrom the proportional gain or loss incurred before October 1, 1967. Taxpayers so electing shall be subject to a tax on taxable income thus recomputed at the rates imposed by this part. An election so made shall include all items of gains or losses realized during the taxable year.

(2) The proportion of gain or loss occurring after September 30, 1967, to total gain or loss is equal to the proportion the number of months after September 30, 1967, to date of disposition bears to the number of months from date of acquisition to date of disposition.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

#### **206.272 Tax credit; amount equal to federal credit; refund.**

Sec. 272. (1) For the following tax years that begin after December 31, 2007, a taxpayer may credit against the tax imposed by this act an amount equal to the specified percentages of the credit the taxpayer is allowed to claim as a credit under section 32 of the internal revenue code for a tax year on a return filed under this act for the same tax year:

- (a) For tax years that begin after December 31, 2007 and before January 1, 2009, 10%.
- (b) For tax years that begin after December 31, 2008 and before January 1, 2012, 20%.
- (c) For tax years that begin after December 31, 2011, 6%.

(2) If the credit allowed by this section exceeds the tax liability of the taxpayer for the tax year, the state treasurer shall refund the excess to the taxpayer without interest, except as provided in section 30 of 1941 PA 122, MCL 205.30.

**History:** Add. 2006, Act 372, Imd. Eff. Sept. 22, 2006;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

**Compiler's note:** Enacting section 1 of Act 469 of 2014 provides:

"Enacting section 1. This amendatory act does not take effect unless House Joint Resolution UU of the 97th Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

House Joint Resolution UU was presented to the electors as Proposal 15-1 at the May 5, 2015 special election. The proposal to amend the constitution was not approved by the voters and Act 469 of 2014 does not go into effect.

#### **206.273 Repealed. 2000, Act 499, Eff. Dec. 31, 2001.**

**Compiler's note:** The repealed section pertained to credit for prescription drugs.

#### **206.274-206.276 Repealed. 2011, Act 38, Eff. Jan. 1, 2012.**

**Compiler's note:** The repealed sections pertained to tax credit claimed for student fees and tuition, certificate of stillbirth, and contributions to individual or family development account program.

#### **206.278 Qualified investment in qualified business; tax credit; definitions.**

Sec. 278. (1) Subject to the limitations provided under this section, a taxpayer that makes a qualified investment after December 31, 2010 and before January 1, 2012 in a qualified business may claim a credit against the tax imposed by this act equal to 25% of the qualified investment made during the tax year.

(2) To qualify for the credit under this section, the taxpayer shall request certification from the Michigan strategic fund within 60 days of making the investment. A taxpayer shall not claim a credit under this section unless the Michigan strategic fund has issued a certificate to the taxpayer. The board shall not approve a credit under this section for a taxpayer who has been convicted of a felony involving a fiduciary obligation or the conversion or misappropriation of funds or insurance accounts, theft, deceit, fraud, misrepresentation, or corruption. The Michigan strategic fund shall forward a copy of each certificate received pursuant to this subsection to the governor, the president of the Michigan strategic fund, the chairperson of the senate finance committee, the chairperson of the house tax policy committee, the director of the senate fiscal agency, and the director of the house fiscal agency. The requirements of section 28(1)(f) of 1941 PA 122, MCL 205.28, do not apply to the disclosure required by this subsection. The Michigan strategic fund shall not certify more than \$1,000,000.00 in qualified investments in any 1 qualified business. The taxpayer shall attach the certificate to the annual return filed under this act on which a credit under this section is claimed. The certificate required

under this subsection shall specify all of the following:

- (a) The total amount of investment made during the tax year by the taxpayer in each qualified business.
  - (b) The total amount of qualified investments made in each qualified business if different from the previous amount.
  - (c) The total amount of the credit under this section that the taxpayer is allowed to claim for the designated tax year.
- (3) A taxpayer shall not claim a credit of more than \$250,000.00 based on an investment in any 1 qualified business and shall not claim a credit of more than \$250,000.00 for qualified investments in all qualified businesses in any 1 year. The credit allowed under this section shall be taken by the taxpayer in equal installments over 2 years beginning with the tax year in which the certification was issued.
- (4) The total amount of credits that the Michigan strategic fund may certify under this section shall not exceed \$9,000,000.00.
- (5) If the amount of the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability of the taxpayer for the tax year shall not be refunded but may be carried forward to offset tax liability under this act in subsequent tax years for a period not to exceed 5 tax years or until used up, whichever occurs first.
- (6) The board shall develop an application and approval process in order to certify investments under this section and adopt a program describing parameters and criteria to be used for approving investments. As part of that program adoption, the board may determine and describe the conditions to be met to be considered an investment alongside or through an approved angel group, seed capital firm, or venture capital firm.
- (7) A taxpayer who has not paid or entered into an installment agreement regarding a final assessment of an unpaid liability for a state tax for which all rights of appeal have been exhausted or who is currently in a bankruptcy proceeding is not eligible to claim a credit under this section.
- (8) As used in this section:
- (a) "Board" means the board of directors of the Michigan strategic fund.
  - (b) "Michigan strategic fund" means the Michigan strategic fund as described in the Michigan strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2094.
  - (c) "Qualified business" means a business that the board certifies as in compliance with all of the following at the time of the investment:
    - (i) The business is a seed or early stage business as defined in section 3 of the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2233.
    - (ii) The business has its headquarters in this state, is domiciled in this state, and has a majority of its employees working in this state.
    - (iii) The business has a preinvestment valuation of less than \$10,000,000.00 and has fewer than 100 full-time equivalent employees.
    - (iv) Except as otherwise provided under this subparagraph, the business has been in existence less than 5 years; or, for a business in which the business activity is derived from research at an institution of higher education located within this state or an organization exempt from federal taxation under section 501(c)(3) of the internal revenue code and that is located within this state, the business has been in existence less than 10 years. As used in this subparagraph, a public or private college or university that awards a bachelor's degree or other degrees is an institution of higher education.
    - (v) The business is not a retail establishment as described in section 44-45 – retail trade, of the North American industry classification system, United States, 1997, published by the office of management and budget.
    - (vi) The business has not claimed a credit under section 431, 455, 457, or 459 of the Michigan business tax act, 2007 PA 36, MCL 208.1431, 208.1455, 208.1457, and 208.1459.
  - (d) "Qualified investment" means, except as otherwise provided under this subdivision, an investment of at least \$20,000.00 certified by the Michigan strategic fund that is made alongside of, or through, a seed venture capital or angel investor group that is registered with the Michigan strategic fund and is not in a business in which any member of the investor's family is an employee or owner of the business or in which the investor or any member of the investor's family has a preexisting fiduciary relationship with the business. Qualified investment does not include an investment in a business that engages in life sciences technology unless those activities are included in the definition of life sciences as that term is defined under section 88a of the Michigan strategic fund act, 1984 PA 270, MCL 125.2088a.

**History:** Add. 2010, Act 235, Imd. Eff. Dec. 14, 2010;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

**Compiler's note:** Enacting section 1 of Act 235 of 2010 provides:

"Enacting section 1. This amendatory act shall be known as the "venture investment credit"."

## CHAPTER 6

### **206.301 Estimated tax; installment payments; due dates; amount; credit; payment of estimated annual tax instead of quarterly payments; filing and payment by farmer, fisherman, or seafarer; information submitted by bank or financial institution; computations; "taxable trust" defined.**

Sec. 301. (1) Every person on a calendar year basis, if the person's annual tax can reasonably be expected to exceed the amount withheld under section 351 and the credits allowed under this part by more than \$500.00, shall pay to the department installments of estimated tax under this part on or before April 15, June 15, and September 15 of the person's tax year and January 15 in the following year. Subject to subsection (3), each installment shall be equal to 1/4 the taxpayer's estimated tax under this part after first deducting the amount estimated to be withheld under section 351.

(2) For a taxpayer on other than a calendar year basis, there shall be substituted for the due dates provided in subsection (1) the appropriate due dates in the taxpayer's fiscal year that correspond to those in the calendar year.

(3) For a taxpayer that pays estimated tax for the taxpayer's first tax year of less than 12 months, the amount paid shall be that fraction of the estimated tax that is obtained by dividing the total amount of estimated tax by the number of payments to be made with respect to the tax year.

(4) There shall be allowed as a credit against the tax imposed by this part the amounts paid to the department pursuant to this section.

(5) Instead of quarterly payments, a person subject to this section may pay an estimated annual tax for the succeeding tax year. The payment shall be made at the same time the person files the annual return for the previous full tax year.

(6) A farmer or fisherman who elects to file and pay his or her federal income tax under an alternative schedule provided in section 6654 of the internal revenue code may file and pay the tax imposed by this part in the same manner. A seafarer may file and pay the tax imposed by this part in the same manner as a farmer or fisherman under this subsection. As used in this subsection, "seafarer" means an individual whose wages may not be withheld for taxes by the state or a political subdivision of the state as provided in section 11108 of title 46 of the United States code, 46 USC 11108.

(7) A bank or financial institution that submits quarterly estimated income tax payment information through the federal tax deposit system on magnetic tape and acts as fiduciary for 200 or more taxable trusts shall submit Michigan quarterly tax payment information on magnetic tape to the department.

(8) A bank or financial institution that acts as fiduciary for more than 49 and fewer than 200 taxable trusts may enter into an irrevocable agreement with the department to submit estimated income tax payment information on magnetic tape to the department.

(9) The payment of tax based on the information required under subsections (7) and (8) shall be made through a wire transfer to the state of Michigan contractual deposit account.

(10) A payment of estimated tax shall be computed on the basis of the annualized rate established under section 51 for the appropriate tax year to which the estimated tax payment is applicable.

(11) Except as provided in subsection (1), the amount of an estimated tax installment shall be computed, payment of estimated tax shall be credited, and a period of underpayment shall be determined in the same manner as provided in the internal revenue code.

(12) As used in this section, "taxable trust" means a trust required to make payments of estimated tax pursuant to subsection (1).

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1971, Act 25, Imd. Eff. May 13, 1971;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975;—Am. 1982, Act 515, Imd. Eff. Dec. 31, 1982;—Am. 1983, Act 15, Imd. Eff. Mar. 29, 1983;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987;—Am. 1988, Act 70, Imd. Eff. Mar. 28, 1988;—Am. 1996, Act 484, Eff. Jan. 17, 1998;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

**Compiler's note:** Section 2 of Act 15 of 1983 provides: "Because a severe economic recession has caused an actual deficit in state funds, the legislature finds that this amendatory act is necessary to, and it is the purpose of this amendatory act to, meet the actual deficiencies existing in state funds at the time of this enactment."

### **206.302 Repealed. 1987, Act 254, Imd. Eff. Dec. 28, 1987.**

**Compiler's note:** The repealed section pertained to computation of estimated tax payments.

### **206.311 Tax return; form; content; verification; transmittal; remittance; extension, computation, and remittance of estimated tax due; interest; penalties; tentative return; payment of estimated tax; joint return; effect of filing copy of federal extension; automatic**

**extension based on service in combat zone.**

Sec. 311. (1) The taxpayer on or before the due date set for the filing of a return or the payment of the tax, except as otherwise provided in this part, shall make out a return in the form and content as prescribed by the department, verify the return, and transmit it, together with a remittance of the amount of the tax, to the department.

(2) Except as otherwise provided in subsection (5), the department, upon application of the taxpayer and for good cause shown, may extend under prescribed conditions the time for filing the annual or final return required by this part. Before the original due date, the taxpayer shall remit with an application for extension the estimated tax due. In computing the tax due for the tax year, interest at the rate established in, and penalties imposed by, section 23 of 1941 PA 122, MCL 205.23, shall be added to the amount of tax unpaid for the period of the extension. The department may require a tentative return and payment of an estimated tax.

(3) Taxpayers who are husband and wife and who file a joint federal income tax return pursuant to the internal revenue code shall file a joint return.

(4) Except as provided in subsection (5), if the taxpayer has been granted an extension or extensions of time within which to file a final federal return for a taxable year, the filing of a copy of the extension or extensions automatically extends the due date of the final return under this part for an equivalent period. The taxpayer shall remit with the copy of the extension or extensions the estimated tax due. In computing the tax due for the tax year, interest at the rate established in, and penalties imposed by, section 23 of 1941 PA 122, MCL 205.23, shall be added to the amount of tax unpaid for the period of the extension.

(5) If the taxpayer is eligible for an automatic extension of time within which to file a federal return based on service in a combat zone, the due date for filing an annual or final return or a return and payment of an estimated tax under this part is automatically extended for an equivalent period of time. The taxpayer is not required to file a copy of any federal extension, but shall print "COMBAT ZONE" in red ink at the top of his or her return when the return is filed. The taxpayer is not required to pay the amount of tax due at the time the return is originally due, and the department shall not impose any interest or penalties for the amount of tax unpaid for the period of the extension.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1975, Act 94, Imd. Eff. June 2, 1975;—Am. 1980, Act 169, Eff. Sept. 17, 1980;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987;—Am. 2004, Act 199, Imd. Eff. July 12, 2004;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

**206.312 Electronic filing of farmland preservation tax credit claim with annual return.**

Sec. 312. Beginning with the 2016 tax year, a taxpayer may, regardless of the number of development rights agreements entered into pursuant to part 361 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.36101 to 324.36117, electronically file a farmland preservation tax credit claim with the taxpayer's annual return under this part.

**History:** Add. 2016, Act 266, Imd. Eff. June 28, 2016.

**206.315 Tax return of person, other than corporation, whose adjusted gross income exceeds personal exemptions; due date; contents; composite income tax return.**

Sec. 315. (1) Every person, other than a corporation, required to make a return for any taxable period under the internal revenue code, except as otherwise specifically provided in this part, if his or her adjusted gross income is in excess of the personal exemptions allowed by this part shall render on or before the fifteenth day of the fourth month following the close of that taxable period to the department a return setting forth all of the following:

(a) The amount of adjusted gross income on the return made to the United States internal revenue service for federal income tax purposes and as provided in the definitions contained in this part and the rules issued under this part.

(b) The personal and dependency exemptions as allowed by this part.

(c) The amount of tax due under this part, less credits claimed against the tax.

(d) Other information for the purposes of carrying out this part as may be prescribed by the department.

(e) The balance of the tax shown to be due on the return is due and shall be paid by the date fixed for filing the return unless the balance is less than \$1.00, in which event payment is not required.

(2) A nonresident member who has income in this state from 1 or more flow-through entities may elect to be included in the composite income tax return of a flow-through entity of which the nonresident member is a member.

(3) A flow-through entity may file a composite income tax return on behalf of electing nonresident members and report and pay the tax due based on the electing nonresident members' shares of income available for distribution from the flow-through entity for doing business in, or deriving income from, sources

within this state.

(4) A nonresident member that has been included in a composite income tax return and also files an individual income tax return for the same taxable period may claim a credit against the tax imposed by this part on that individual income tax return for the amount of taxes paid on behalf of the nonresident member by the flow-through entity on that composite income tax return.

(5) A composite income tax return is due on or before each April 15 and shall report the information required by the department for the immediately preceding calendar year.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975;—Am. 2003, Act 49, Eff. Oct. 1, 2003;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

#### **206.321 Repealed. 1975, Act 233, Imd. Eff. Aug. 27, 1975.**

**Compiler's note:** The repealed section pertained to tax returns of corporations and financial institutions.

#### **206.322 Whole dollar amounts; use.**

Sec. 322. Any person electing to use "whole dollar amounts" under the provisions of section 6102 of the internal revenue code may use "whole dollar amounts" in the same manner for the purposes of this part.

**History:** Add. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

#### **206.325 Furnishing copy of federal tax return and supporting schedules; filing amended return showing final alteration, modification, recomputation, or determination of deficiency; assessment of increased tax resulting from federal audit; payment of additional tax; credit or refund of overpayment.**

Sec. 325. (1) A taxpayer required to file a return under this part may be required to furnish a true and correct copy of any tax return or portion of any tax return and supporting schedules that the taxpayer has filed under the provisions of the internal revenue code.

(2) A taxpayer shall file an amended return with the department showing any final alteration in, or modification of, the taxpayer's federal income tax return that affects the taxpayer's taxable income under this part and of any similarly related recomputation of tax or determination of deficiency under the internal revenue code. If an increase in taxable income results from a federal audit that increases the taxpayer's federal income tax by less than \$500.00, the requirement under this subsection to file an amended return does not apply but the department may assess an increase in tax resulting from the audit. The amended return shall be filed within 120 days after the final alteration, modification, recomputation, or determination of deficiency. If the department finds upon all the facts that an additional tax under this part is owing, the taxpayer shall immediately pay the additional tax. If the department finds that the taxpayer has overpaid the tax imposed by this part, a credit or refund of the overpayment shall immediately be made as provided in section 30 of 1941 PA 122, MCL 205.30.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

#### **206.331 Filing or submitting information as to income paid to others; filing copies or alternate forms of federal tax return.**

Sec. 331. (1) At the request of the department, every person required by the internal revenue code to file or submit an information return of income paid to others shall, to the extent the information is applicable to residents of this state, at the same time file or submit the information in form and content as may be prescribed to the department.

(2) Every corporation, voluntary association, joint venture, partnership, estate or trust at the request of the department shall file a copy of any tax return or portion of any tax return which has been filed under the internal revenue code. The department may prescribe alternate forms of returns.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975.

#### **206.335-206.341 Repealed. 1975, Act 233, Imd. Eff. Aug. 27, 1975.**

**Compiler's note:** The repealed sections pertained to combined reports, to agreements improperly reflecting income, and to returns and payments based on distribution shares of business income.

### CHAPTER 7

#### **206.351 Repealed. 2011, Act 38, Eff. Jan. 1, 2012.**

**Compiler's note:** The repealed section pertained to deducting and withholding tax on compensation.

### **206.352 Direct deposit of tax refund.**

Sec. 352. (1) For the 1997 tax year and each tax year after the 1997 tax year, a taxpayer who is due a refund determined under section 30 of Act No. 122 of the Public Acts of 1941, being section 205.30 of the Michigan Compiled Laws, may request a direct deposit of that refund to a financial institution of the taxpayer's choice that is located in the United States by completing a direct deposit form prescribed by the department and attaching the completed form to the taxpayer's annual return.

(2) The department shall comply with a request under this section unless the request is incomplete or defective in a manner that precludes the department from honoring the request. If the department does not honor the request, the department shall issue a warrant, as provided in Act No. 122 of the Public Acts of 1941, being sections 205.1 to 205.31 of the Michigan Compiled Laws, and at the same time provide the taxpayer with a written explanation including the specific reason for not honoring the taxpayer's request for direct deposit.

**History:** Add. 1996, Act 568, Eff. Mar. 31, 1997.

### **206.355 Repealed. 2011, Act 38, Eff. Jan. 1, 2012.**

**Compiler's note:** The repealed section pertained to employer, flow-through entity, casino licensee, or race meeting licensee subject to administration, collection, and enforcement provisions.

### **206.355a Repealed. 2011, Act 38, Eff. Jan. 1, 2012.**

**Compiler's note:** The repealed section pertained to filing form 1099-MISC.

### **206.361 Repealed. 2011, Act 38, Eff. Jan. 1, 2012.**

**Compiler's note:** The repealed section pertained to withholding by governmental units and officers.

### **206.365-206.367 Repealed. 2011, Act 38, Eff. Jan. 1, 2012.**

**Compiler's note:** The repealed sections pertained to withholding by governmental units; filing statement of compensation paid; withholding requirements for new jobs training programs; and tax credit for eligible production company.

## CHAPTER 8

### **206.401 Repealed. 1980, Act 169, Eff. Sept. 17, 1980.**

**Compiler's note:** The repealed section pertained to determination of tax, crediting or refunding excess payment, and penalty for deficiency.

### **206.402 Administration of tax; conflicting provisions.**

Sec. 402. The tax imposed by this part shall be administered by the department in accordance with 1941 PA 122, MCL 205.1 to 205.31, and this part. In case of conflict between the provisions of 1941 PA 122, MCL 205.1 to 205.31, and this part, the provisions of this part shall prevail.

**History:** Add. 1980, Act 169, Eff. Sept. 17, 1980;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

### **206.405 Repealed. 1980, Act 169, Eff. Sept. 17, 1980.**

**Compiler's note:** The repealed section pertained to failure or refusal to file return, report, or statement.

### **206.408 Records.**

Sec. 408. A person liable for any tax imposed under this part shall keep and maintain accurate records in a form as to make it possible to determine the tax due under this part.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1980, Act 169, Eff. Sept. 17, 1980;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

### **206.411 Repealed. 1996, Act 484, Eff. Jan. 1, 1996.**

**Compiler's note:** The repealed section pertained to statute of limitations.

### **206.421-206.431 Repealed. 1980, Act 169, Eff. Sept. 17, 1980.**

**Compiler's note:** The repealed sections pertained to notice of intent to levy tax, hearing, appeal, notices, collection of tax, jeopardy assessment, actions at law, and liens.

### **206.435 Contribution designations; separate contributions schedule; cessation by department; insufficient refund to make contribution; appropriation; distribution and administration; additional contribution designations; considerations.**

Sec. 435. (1) Except as otherwise provided under this section, an individual may designate in a manner and form as prescribed by the department pursuant to subsection (2) on his or her annual return that contributions

of \$5.00, \$10.00, or more of his or her refund be credited to any of the following:

- (a) The children's trust fund created in 1982 PA 249, MCL 21.171 to 21.172.
- (b) The military family relief fund created in section 3 of the military family relief fund act, 2004 PA 363, MCL 35.1213.
- (c) The animal welfare fund created in section 3 of the animal welfare fund act, 2007 PA 132, MCL 287.993.
- (d) The united way fund created in section 3 of the united way fund act, 2008 PA 527, MCL 333.26533.
- (e) For the 2016 tax year and each tax year after the 2016 tax year, the Michigan junior achievement fund created in section 5 of the Michigan junior achievement fund act, 2016 PA 181, MCL 206.1015.
- (f) For the 2016 tax year and each tax year after the 2016 tax year, the American Red Cross Michigan fund created in section 5 of the American Red Cross Michigan fund act, 2016 PA 183, MCL 206.1035.
- (g) For the 2018 tax year and each tax year after the 2018 tax year, the fostering futures scholarship trust fund created in section 3 of the fostering futures scholarship trust fund act, 2008 PA 525, MCL 722.1023.
- (h) For the 2018 tax year and each tax year after the 2018 tax year, the Lions of Michigan Foundation fund created in section 5 of the Lions of Michigan Foundation fund act.
- (i) For the 2018 tax year and each tax year after the 2018 tax year, the Michigan World War II Legacy Memorial fund created in section 5 of the Michigan World War II Legacy Memorial fund act.
- (j) For the 2018 tax year and each tax year after the 2018 tax year, the Kiwanis fund created in section 5 of the Kiwanis fund act.

(2) Subject to the limitations provided under this subsection, the department shall establish and utilize a separate contributions schedule that incorporates each contribution designation authorized under this section that remains in effect and available for each tax year and shall revise the state individual income tax return form to include a separate line for the total contribution designations made under the separate contributions schedule. The contribution designations authorized under sections 437, 438, and 440 shall be incorporated into the contributions schedule for the 2010 tax year and shall remain on the schedule until the contribution designation expires by law or is otherwise no longer available as determined by the department pursuant to subsection (3). A contribution designation that is enacted after November 1, 2007 shall be incorporated as soon as practical on the contributions schedule, and each new contribution designation shall be listed on the schedule in alphabetical order. The separate contributions schedule required under this section shall include not more than 10 separate contribution designations in any single tax year.

(3) The department shall cease to include a contribution designation on the contributions schedule if that contribution designation fails to raise \$50,000.00 in any tax year for 2 consecutive tax years.

(4) If an individual's refund is not sufficient to make a contribution under this section, the individual may designate a contribution amount and that contribution amount shall be added to the individual's tax liability for the tax year.

(5) Notwithstanding any other allocations or disbursements required by this act, each year that a contribution designation under this section is in effect, an amount equal to the cumulative designation made under this section, less the amount appropriated to the department to implement this section, shall be appropriated from the general fund and distributed to the department responsible for administering the appropriate fund to which the taxpayer designated his or her contribution and shall be used solely for the purposes of that fund.

(6) Money appropriated pursuant to an appropriations act as required by law in accordance with this section to the department responsible for administering each respective fund shall be in addition to any other allocation or appropriation and is intended to enhance appropriations from the general fund and not to replace or supplant those appropriations.

(7) Notwithstanding any other provision of law, all of the following apply:

(a) Money appropriated from the contributions made pursuant to this section shall be distributed as provided in each respective fund within 1 year and none of the money appropriated pursuant to this section shall be used for the purpose of administering the fund.

(b) If the fund to which the taxpayer designated his or her contributions is to be used for donations to multiple organizations located in this state, the department responsible for administering that fund shall designate 1 local representative or agency of that organization to administer and distribute those funds to other similar organizations in this state as provided in each respective act that created the fund.

(8) When considering whether to grant legislative approval to amend the state individual income tax return to include additional contribution designations on the contributions schedule, the legislature shall consider all of the following:

(a) Whether the organization serves multiple regions throughout this state.

(b) Whether the organization has demonstrated that it is capable of raising more than \$50,000.00 in this

state during the tax year through means other than the income tax contribution designation.

(c) Whether the organization expends 30% or more of its money to cover administrative and fund-raising costs.

(d) Whether the organization had previously been included on the contributions schedule within the last immediately preceding 3 years and was removed because it failed to raise a sufficient amount of money as prescribed under subsection (3).

(e) Whether the organization receives any other state funds or other type of financial assistance from this state.

(f) Whether the organization is associated with a nonprofit charitable organization.

**History:** Add. 2007, Act 133, Imd. Eff. Nov. 1, 2007;—Am. 2008, Act 143, Imd. Eff. May 28, 2008;—Am. 2008, Act 162, Imd. Eff. June 16, 2008;—Am. 2008, Act 322, Imd. Eff. Dec. 18, 2008;—Am. 2008, Act 526, Imd. Eff. Jan. 13, 2009;—Am. 2008, Act 558, Imd. Eff. Jan. 16, 2009;—Am. 2008, Act 560, Imd. Eff. Jan. 16, 2009;—Am. 2010, Act 346, Imd. Eff. Dec. 21, 2010;—Am. 2012, Act 151, Imd. Eff. May 30, 2012;—Am. 2012, Act 154, Imd. Eff. June 5, 2012;—Am. 2013, Act 90, Imd. Eff. June 28, 2013;—Am. 2013, Act 92, Imd. Eff. June 28, 2013;—Am. 2016, Act 182, Imd. Eff. June 16, 2016;—Am. 2016, Act 184, Imd. Eff. June 16, 2016;—Am. 2018, Act 252, Imd. Eff. June 28, 2018;—Am. 2018, Act 254, Imd. Eff. June 28, 2018;—Am. 2018, Act 256, Imd. Eff. June 28, 2018;—Am. 2018, Act 258, Imd. Eff. June 28, 2018.

### **206.437 Children of veterans tuition grant program; contribution designation.**

Sec. 437. (1) For the 2006 tax year and each tax year after the 2006 tax year, an individual may designate on his or her annual return that a contribution of \$2.00 or more of his or her refund be credited to the Michigan higher education assistance authority created in section 1 of 1960 PA 77, MCL 390.951, for the children of veterans tuition grant program created in the children of veterans tuition grant act, 2005 PA 248, MCL 390.1341 to 390.1346. Notwithstanding any other provision in this section or section 475, for the 2010 tax year and each tax year after the 2010 tax year, the contribution designation authorized under this section shall be offered and administered in accordance with section 435. If an individual's refund is not sufficient to make a contribution under this section, the individual may designate a contribution amount and that contribution amount shall be added to the individual's tax liability for the tax year.

(2) The tax designation authorized in this section shall be clearly and unambiguously printed on the first page of the state individual income tax return forms, if practical. Effective January 1, 2010, the contribution designation authorized in this section is no longer required to be printed on the first page of the state individual income tax return but shall be incorporated into the contributions schedule created by the department pursuant to section 435 and shall remain on the schedule until the contribution designation expires or is otherwise no longer available.

(3) Notwithstanding any other allocations or disbursements required by this act, each year that the contribution designation under this section is in effect, an amount equal to the cumulative contributions made under this section shall be appropriated from the general fund to the children of veterans tuition grant program of the Michigan higher education assistance authority, and the funds shall be distributed for programs allowed under the children of veterans tuition grant act, 2005 PA 248, MCL 390.1341 to 390.1346. No money from the contributions made pursuant to this section shall be used for the purpose of administering this section.

**History:** Add. 2005, Act 249, Imd. Eff. Dec. 1, 2005;—Am. 2007, Act 133, Imd. Eff. Nov. 1, 2007.

### **206.438 Designation of contribution to the military family relief fund.**

Sec. 438. (1) For tax years that begin after December 31, 2003, a taxpayer may designate on his or her annual return that a contribution of \$1.00 or more of his or her refund be credited to the military family relief fund created in section 3 of the military family relief fund act, 2004 PA 363, MCL 35.1213. Notwithstanding any other provision in this section, for the tax years beginning on and after January 1, 2010, the contribution designation authorized under this section shall be offered and administered in accordance with section 435.

(2) If a taxpayer's refund is not sufficient to make a contribution under this section, the taxpayer may designate that the amount designated be added to the taxpayer's tax liability for the tax year.

(3) The contribution designation authorized in this section shall be clearly and unambiguously printed on the first page of all state individual income tax return forms, if practicable. Effective January 1, 2010, the contribution designation authorized in this section is no longer required to be printed on the first page of the state individual income tax return but shall be incorporated into the contributions schedule created by the department pursuant to section 435 and shall remain on the schedule until the contribution designation expires or is otherwise no longer available.

(4) Notwithstanding the other allocations and disbursements required by this act, and each year that the contribution designation is in effect, an amount equal to the cumulative designations made under this section, less the amount appropriated to the department of treasury for the purpose of implementing this section, shall



be appropriated from the general fund and distributed each fiscal year to the department of military and veterans affairs to be used as follows:

(a) Twenty percent to the post fund and posthumous fund of the Michigan soldiers' home to be used as provided in 1905 PA 313, MCL 36.61.

(b) Eighty percent to the military family relief fund created in the military family relief fund act, 2004 PA 363, MCL 35.1211 to 35.1216.

(5) Money appropriated pursuant to this section to the department of military and veterans affairs shall be in addition to any allocations and appropriations and is intended to enhance appropriations from the general fund and not to replace or supplant those appropriations.

**History:** Add. 2004, Act 364, Imd. Eff. Oct. 6, 2004;—Am. 2008, Act 151, Imd. Eff. June 5, 2008.

#### **206.439 Designating portion of tax refund credited to Michigan nongame fish and wildlife trust fund; printing contribution designation on income tax return form; disposition of amount equal to cumulative designations.**

Sec. 439. (1) Until the state treasurer certifies that the assets in the nongame fish and wildlife trust fund created in the nongame fish and wildlife trust fund act exceed \$6,000,000.00, a taxpayer may designate on his or her annual return that a contribution of \$2.00 or more of his or her refund be credited to the state of Michigan nongame fish and wildlife trust fund created in part 439 (nongame fish and wildlife trust fund) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.43901 to 324.43907 of the Michigan Compiled Laws. If a taxpayer's refund is not sufficient to make a contribution under this section, the taxpayer may designate a contribution amount and that contribution amount shall be added to the taxpayer's tax liability for the tax year.

(2) The contribution designation authorized in this section shall be clearly and unambiguously printed on the first page of all state individual income tax return forms, if practicable.

(3) Notwithstanding the other allocations and disbursements required by this act, an amount equal to the cumulative designations made under this section, less the amount appropriated to the department of treasury for the purpose of implementing this section, shall be deposited in the state of Michigan nongame fish and wildlife trust fund and shall be appropriated solely for the purposes of the fund.

**History:** Add. 1983, Act 189, Imd. Eff. Nov. 1, 1983;—Am. 1985, Act 145, Imd. Eff. Nov. 7, 1985;—Am. 1986, Act 286, Eff. Jan. 22, 1987;—Am. 1993, Act 162, Imd. Eff. Sept. 16, 1993;—Am. 1996, Act 55, Imd. Eff. Feb. 26, 1996;—Am. 1996, Act 484, Eff. Jan. 1, 1996.

**Compiler's note:** Subsection (1) of Section 3 of Act 484 provides:

"Section 3. (1) Sections 264, 274, 439, 440, 471, 475, 506, 512, 522, and 527a of Act No. 281 of the Public Acts of 1967, as amended by this amendatory act, are retroactive and effective January 1, 1996."

#### **206.440 Children's trust fund; contribution designation.**

Sec. 440. (1) Effective for the tax year beginning January 1, 1982 and before January 1, 2005, an individual may designate on his or her annual return that a contribution of \$2.00 or more of his or her refund and for tax years beginning on and after January 1, 2005, an individual may designate on his or her annual return that a contribution of \$5.00 or more of his or her refund be credited to the children's trust fund created in 1982 PA 249, MCL 21.171 to 21.172. Notwithstanding any other provision in this section, for the tax years beginning on and after January 1, 2010, the contribution designation authorized under this section shall be offered and administered in accordance with section 435. If a taxpayer's refund is not sufficient to make a contribution under this section, the taxpayer may designate a contribution amount and that contribution amount shall be added to the taxpayer's tax liability for the tax year.

(2) The contribution designation authorized in this section shall be clearly and unambiguously printed on the first page of the state individual income tax return. Effective January 1, 2010, the contribution designation authorized under this section is no longer required to be printed on the first page of the state individual income tax return but shall be incorporated into the contributions schedule created by the department pursuant to section 435 and shall remain on the schedule until the contribution designation expires or is otherwise no longer available.

**History:** Add. 1982, Act 211, Eff. Sept. 29, 1982;—Am. 1985, Act 156, Imd. Eff. Nov. 15, 1985;—Am. 1996, Act 484, Eff. Jan. 1, 1996;—Am. 2005, Act 160, Imd. Eff. Oct. 3, 2005;—Am. 2007, Act 133, Imd. Eff. Nov. 1, 2007.

**Compiler's note:** Subsection (1) of Section 3 of Act 484 provides:

"Section 3. (1) Sections 264, 274, 439, 440, 471, 475, 506, 512, 522, and 527a of Act No. 281 of the Public Acts of 1967, as amended by this amendatory act, are retroactive and effective January 1, 1996."

#### **206.441 Repealed. 1990, Act 285, Eff. Dec. 21, 1990;—1990, Act 344, Imd. Eff. Dec. 21, 1990.**

**Compiler's note:** The repealed section pertained to credit or refund of taxes or penalties.

**206.442 Repealed. 1974, Act 308, Eff. Apr. 1, 1975.**

**Compiler's note:** The repealed section pertained to failure or refusal to make refund.

**206.451 Certificate of dissolution or withdrawal until taxes paid; payment of taxes as condition to closing of estate.**

Sec. 451. (1) A domestic corporation, a foreign corporation, or other business entity authorized to transact business in this state that submits a certificate of dissolution or requests a certificate of withdrawal from this state shall request a certificate from the department stating that taxes are not due under section 27a of 1941 PA 122, MCL 205.27a, not more than 60 days after submitting the certificate of dissolution or requesting the certificate of withdrawal. A corporation or other business entity that does not request a certificate stating that taxes are not due is subject to the same penalties under section 24 of 1941 PA 122, MCL 205.24, that a taxpayer would be subject to for failure to file a return.

(2) An estate of a person subject to tax under this part shall not be closed without the payment of the tax levied by this part, both in respect to the liability of the estate and decedent prior to his or her death.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987;—Am. 2002, Act 581, Imd. Eff. Oct. 14, 2002;—Am. 2003, Act 46, Eff. Oct. 1, 2003;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

**206.455 Records, books, and accounts; examination; violation; penalties.**

Sec. 455. Every person shall keep such records, books and accounts as may be necessary to determine the amount of tax for which it is liable under the provisions of this part and as the department may require for a period of 6 years. The records, books and accounts shall be open for examination at any time during regular business hours of the taxpayer by the department and its agents. Any person who violates any provision of this section is guilty of a misdemeanor and shall be fined not more than \$1,000.00 or imprisoned not more than 1 year in the county jail, or both.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

**206.461-206.466 Repealed. 1980, Act 169, Eff. Sept. 17, 1980.**

**Compiler's note:** The repealed sections pertained to offenses, penalties, enforcement, and confidentiality.

**206.471 Administration of tax by department; forms; rules; printing summary of state expenditures and revenues in instruction booklet; space on tax return for school district; information to be provided in instruction booklet about purchase of annual state park motor vehicle permit; listing of credit and deduction; posting of list on website.**

Sec. 471. (1) The tax imposed by this part shall be administered by the department. The department shall prescribe forms for use by taxpayers and may promulgate rules for all of the following:

- (a) The maintenance by taxpayers of records, books, and accounts.
- (b) The computation of the tax.
- (c) The manner and time of changing or electing accounting methods and of exercising the accounting method options contained in this part.
- (d) The making of returns, the payment of tax due, and the ascertainment, assessment, and collection of the tax.

(2) The rules shall follow the rulings of the United States internal revenue service with respect to the federal income tax if those rulings are not inconsistent with this part, and the department may adopt as a part of the rules any portions of the internal revenue code or rulings, in whole or in part.

(3) A summary of state expenditures and revenues by major category, in dollar amounts and percentage of total, for the most recent state fiscal year that the information is available, shall be printed in the instruction booklet accompanying each state income tax return.

(4) Each state income tax return shall contain a space for the taxpayer to indicate the school district in which the taxpayer resides.

(5) The department may provide information in the instruction booklet about the purchase of an annual state park motor vehicle permit pursuant to part 741 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.74101 to 324.74125.

(6) In the instruction booklet that accompanies the annual return required under this part, the department shall provide a clear and concise listing of each credit and each deduction allowed under this part and a reference to a detailed explanation.

(7) The department shall post the list described in subsection (6) on the department's official website.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1977, Act 163, Eff. Mar. 30, 1978;—Am. 1991, Act 82, Imd. Eff. July 18, 1991;—

Am. 1994, Act 119, Eff. Mar. 30, 1995;—Am. 1996, Act 55, Imd. Eff. Feb. 26, 1996;—Am. 1996, Act 484, Eff. Jan. 1, 1996;—Am. 2002, Act 486, Imd. Eff. June 27, 2002;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

**Compiler's note:** Subsection (1) of Section 3 of Act 484 provides:  
“Section 3. (1) Sections 264, 274, 439, 440, 471, 475, 506, 512, 522, and 527a of Act No. 281 of the Public Acts of 1967, as amended by this amendatory act, are retroactive and effective January 1, 1996.”

**Administrative rules:** R 206.1 et seq. of the Michigan Administrative Code.

### **206.472 Personal income and property tax credit forms and instructions; submission of drafts with explanations of changes.**

Sec. 472. Before final printing the department shall submit the draft of the proposed personal income tax forms and instructions and the proposed property tax credit forms and instructions together with explanations of any and all changes from the prior forms and instructions to the house taxation and senate finance committees.

**History:** Add. 1977, Act 1, Imd. Eff. Feb. 23, 1977.

### **206.473 Direct deposit of tax refund; form.**

Sec. 473. The department shall develop and make available a direct deposit form prescribed by the department to provide for the direct deposit of a refund due to a taxpayer.

**History:** Add. 1996, Act 568, Eff. Mar. 31, 1997.

### **206.475 Tax imposed additional to other taxes; disposition of proceeds; allocation and distribution; contribution designation program; appropriation; children's trust fund.**

Sec. 475. (1) The tax imposed by this part is in addition to all other taxes for which the taxpayer is liable and the proceeds derived from the tax shall be credited to the general fund to be allocated and distributed as provided in this part.

(2) Each year that the contribution designation program established in section 440 is in effect, an amount equal to the cumulative designations made under section 440 less the annual amount appropriated to the department of treasury for the purpose of administering the children's trust fund and implementing section 440, shall be appropriated from the general fund to the children's trust fund in the department of treasury for use solely in support of the purposes provided in the act that created the children's trust fund.

**History:** 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1982, Act 211, Eff. Sept. 29, 1982;—Am. 1991, Act 82, Imd. Eff. July 18, 1991;—Am. 1996, Act 484, Eff. Jan. 1, 1996;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

**Compiler's note:** Section 475 of Act 250 of 1978, purporting to amend this section, was submitted to and disapproved by the people as part of Proposal E at the general election held on November 4, 1980.

Subsection (1) of Section 3 of Act 484 provides:

“Section 3. (1) Sections 264, 274, 439, 440, 471, 475, 506, 512, 522, and 527a of Act No. 281 of the Public Acts of 1967, as amended by this amendatory act, are retroactive and effective January 1, 1996.”

### **206.481 Repealed. 1996, Act 342, Eff. Oct. 1, 1996.**

**Compiler's note:** The repealed section pertained to remittances by state disbursing authority to cities, villages, townships, and counties.

### **206.482 Repealed. 2011, Act 38, Eff. Jan. 1, 2012.**

**Compiler's note:** The repealed section pertained to amounts distributed to local governments.

### **206.483 Repealed. 2002, Act 225, Imd. Eff. Apr. 29, 2002.**

**Compiler's note:** The repealed section pertained to deposit in federal facility development fund.

### **206.491-206.495 Repealed. 1980, Act 169, Eff. Sept. 17, 1980.**

**Compiler's note:** The repealed sections pertained to computation of taxes and exclusion of business activities tax and income.

### **206.496 Repealed. 2011, Act 38, Eff. Jan. 1, 2012.**

**Compiler's note:** The repealed section pertained to appropriation to department in 1982-1983 fiscal year.

### **206.497 Repealed. 1980, Act 169, Eff. Sept. 17, 1980.**

**Compiler's note:** The repealed section pertained to business activities tax repeal.

### **206.498, 206.499 Repealed. 2011, Act 38, Eff. Jan. 1, 2012.**

**Compiler's note:** The repealed sections pertained to declarations in act and effective date.

## CHAPTER 9

**206.501 Applicability of definitions.**

Sec. 501. The definitions contained in sections 504 to 516 shall control only in the interpretation of this chapter, unless the context clearly requires otherwise.

**History:** Add. 1973, Act 20, Imd. Eff. May 16, 1973.

**206.504 "Blind" and "claimant" defined.**

Sec. 504. (1) "Blind" means a person with a permanent impairment of both eyes of the following status: central visual acuity of 20/200 or less in the better eye, with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance of not greater than 20 degrees in the better eye.

(2) "Claimant" means an individual natural person who filed a claim under this chapter and who was domiciled in this state during at least 6 months of the calendar year immediately preceding the year in which the claim is filed under this chapter and includes a husband and wife if they are required to file a joint state income tax return. The 6-month residency requirement does not apply to a claimant who files for the home heating credit under section 527a.

**History:** Add. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1978, Act 458, Imd. Eff. Oct. 16, 1978;—Am. 1979, Act 126, Imd. Eff. Oct. 23, 1979;—Am. 1993, Act 328, Eff. Apr. 1, 1994.

**206.506 "Eligible serviceperson," "eligible veteran," and "eligible widow or widower" defined.**

Sec. 506. "Eligible serviceperson", "eligible veteran", and "eligible widow or widower" means a serviceperson, veteran, or widow or widower, whose income as defined in this chapter is not more than \$7,500.00 per year unless the serviceperson, veteran, or widow or widower receives compensation paid by the veterans administration or the armed forces of the United States for service incurred disabilities and who meets the requirements of the following schedule:

War	Person	Service in War	Disability %	Taxable Value Allowance
Indian Civil Spanish-American Mexican	Veteran or veteran's widow or widower	3 months, or 1 day with discharge for service-connected disability	No requirement	\$3,500.00
World War I World War II Korean	Widow or widower of nondisabled or nonpensioned veteran	3 months, or 1 day with discharge for service-connected disability	No requirement	\$2,500.00
All wars or presidential executive order or presidential proclamation	Pensioned veteran or veteran's widow or widower	Any	No requirement	\$3,500.00
All wars or presidential executive order or presidential proclamation	Veteran with service-connected disability or veteran's widow or widower	Any	10-50	\$3,500.00
All wars or	Veteran with	Any	60-70-80	\$4,000.00

presidential service-connected  
executive disability or  
order or veteran's widow  
presidential or widower  
proclamation

All wars or presidential executive order or presidential proclamation	Veteran with service-connected disability or veteran's widow or widower	Any	90-100	\$4,500.00
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All wars or presidential executive order or presidential proclamation	Widow or widower of veteran dying in service	Any	No requirement	\$4,500.00
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Current service	Serviceperson or serviceperson's widow or widower	Any	No requirement	\$3,500.00
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**History:** Add. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987;—Am. 1996, Act 484, Eff. Jan. 1, 1996.

**Compiler's note:** Subsection (1) of Section 3 of Act 484 provides:

“Section 3. (1) Sections 264, 274, 439, 440, 471, 475, 506, 512, 522, and 527a of Act No. 281 of the Public Acts of 1967, as amended by this amendatory act, are retroactive and effective January 1, 1996.”

### **206.507 “Federally aided housing” and “state aided housing” defined.**

Sec. 507. (1) “Federally aided housing” means housing developed under a program administered by the secretary of the United States department of housing and urban development providing below market interest rate mortgages, interest reduction payments, rent supplements, annual contributions of housing assistance payments, or housing allowances or housing receiving special benefits under federal law designated specifically to develop low and moderate income housing.

(2) “State aided housing” is housing financed by a loan secured by a mortgage or security interest made by the Michigan state housing development authority for the construction, rehabilitation, or long-term financing of housing for low or moderate income persons.

**History:** Add. 1975, Act 233, Imd. Eff. Aug. 27, 1975.

### **206.508 Definitions.**

Sec. 508. (1) “Gross rent” means the total rent contracted to be paid by the renter or lessee of a homestead pursuant to dealing at arms' length with the landlord of the homestead. When the landlord and tenant have not dealt with each other at arms' length and the department believes that the gross rent charged is excessive, the department may adjust the gross rent to a reasonable amount for the purposes of this chapter.

(2) “Homestead” means a dwelling or unit in a multiple-unit dwelling that is subject to ad valorem taxes, or a service charge in lieu of taxes as provided by section 15a of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1415a, owned and occupied as a home by the owner of the dwelling or unit, or occupied as the dwelling of the renter or lessee, including all unoccupied real property not classified for ad valorem tax purposes as commercial, industrial, residential, or timber-cut over, owned by the owner of the homestead. Beginning in the 1990 tax year, a homestead does not include unoccupied real property that is leased or rented by the owner to another person and that is not adjacent and contiguous to the home of the owner. Additionally, the following apply:

(a) If a homestead is an integral part of a larger unit of assessment such as commercial, industrial, residential, timber-cut over, or a multipurpose or multidwelling building, the tax on the homestead shall be the same proportion of the total property tax as the proportion of the value of the homestead is to the total value of the assessed property.

(b) If the gross receipts of the agricultural or horticultural operations do not exceed the household income, or if there are no gross receipts, the following apply:

(i) If the claimant has lived on the land 10 years or more, all of the adjacent and contiguous agricultural or

horticultural lands shall be considered a homestead and the credit is allowed for all the land.

(ii) If the claimant has lived on the land less than 10 years, not more than 5 acres of adjacent and contiguous agricultural or horticultural land shall be considered a part of the homestead and the credit is allowed for that part of the land.

(c) A mobile home or trailer coach in a trailer coach park is a homestead and the site rent for space is considered the rent of a homestead. The specific tax levied by section 41 of 1959 PA 243, MCL 125.1041, is considered a property tax.

(3) "Household" means a claimant and spouse.

(4) "Total household resources" means all income received by all persons of a household in a tax year while members of a household, increased by the following deductions from federal gross income:

(a) Any net business loss after netting all business income and loss.

(b) Any net rental or royalty loss.

(c) Any carryback or carryforward of a net operating loss as defined in section 172(b)(2) of the internal revenue code.

**History:** Add. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975;—Am. 1990, Act 283, Imd. Eff. Dec. 14, 1990;—Am. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 177, Eff. Jan. 1, 2012.

### **206.510 "Income" and "owner" defined.**

Sec. 510. (1) "Income" means the sum of federal adjusted gross income as defined in the internal revenue code plus all income specifically excluded or exempt from the computations of the federal adjusted gross income. Also, a person who is enrolled in an accident or health insurance plan may deduct from income the amount that person paid in premiums in the tax year for that insurance plan for the person's family. Income does not include any of the following:

(a) The first \$300.00 of gifts in cash or kind from nongovernmental sources.

(b) The first \$300.00 received from awards, prizes, lottery, bingo, or other gambling winnings.

(c) Surplus foods.

(d) Relief in kind supplied by a governmental agency.

(e) Payments or credits under this part.

(f) A governmental grant that has to be used by the claimant for rehabilitation of the claimant's homestead.

(g) Stipends received by a person 60 years of age or older who is acting as a foster grandparent under the foster grandparent program authorized pursuant to section 211 of part B of title II of the domestic volunteer service act of 1973, Public Law 93-113, 42 USC 5011, or who is acting as a senior companion pursuant to section 213 of part C of title II of the domestic volunteer service act of 1973, Public Law 93-113, 42 USC 5013.

(h) Amounts deducted from monthly social security or railroad retirement benefits for medicare premiums.

(i) Contributions by an employer to life, accident, or health insurance plans.

(j) Energy assistance grants and energy assistance tax credits.

(2) "Owner" means a natural person who owns or is purchasing a homestead under a mortgage or land contract, who owns or is purchasing a dwelling situated on the leased lands of another, or who is a tenant-stockholder of a cooperative housing corporation.

**History:** Add. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1977, Act 1, Imd. Eff. Feb 23, 1977;—Am. 1978, Act 43, Imd. Eff. Mar. 7, 1978;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987;—Am. 1988, Act 261, Imd. Eff. July 15, 1988;—Am. 1995, Act 244, Imd. Eff. Dec. 27, 1995;—Am. 1995, Act 245, Imd. Eff. Dec. 27, 1995;—Am. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 172, Eff. Jan. 1, 2012.

**Compiler's note:** Section 2 of Act 43 of 1978 provides: "This amendatory act shall take effect for all tax years beginning January 1, 1977, and thereafter."

Section 2 of Act 261 of 1988 provides: "This amendatory act is effective for a tax year that begins after December 31, 1986."

### **206.512 Definitions; P to R.**

Sec. 512. (1) "Paraplegic, hemiplegic, or quadriplegic" means an individual, or either 1 of 2 persons filing a joint tax return under this part, who is a paraplegic, hemiplegic, or quadriplegic at the end of the tax year.

(2) "Renter" means a person who rents or leases a homestead.

**History:** Add. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1974, Act 12, Imd. Eff. Feb. 15, 1974;—Am. 1974, Act 125, Imd. Eff. May 25, 1974;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987;—Am. 1995, Act 245, Imd. Eff. Dec. 27, 1995;—Am. 1996, Act 484, Eff. Jan. 1, 1996;—Am. 2003, Act 29, Imd. Eff. June 26, 2003;—Am. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2018, Act 38, Imd. Eff. Feb. 28, 2018.

**Compiler's note:** Act 253 of 1980, purporting to amend MCL 206.30, 206.512, 206.520, and 206.522 and to add a MCL 206.261 could not take effect until Senate Joint Resolution X became effective as part of the constitution. Senate Joint Resolution X was submitted to and disapproved by the people at the general election held on November 4, 1980.

Subsection (1) of Section 3 of Act 484 provides:  
"Section 3. (1) Sections 264, 274, 439, 440, 471, 475, 506, 512, 522, and 527a of Act No. 281 of the Public Acts of 1967, as amended by this amendatory act, are retroactive and effective January 1, 1996."

#### **206.512a "Property taxes" defined.**

Sec. 512a. "Property taxes" means, for the 2003 tax year and tax years after the 2003 tax year, general ad valorem taxes due and payable, levied on a homestead within this state including property tax administration fees, but does not include penalties, interest, or special assessments unless the special assessment is levied using a uniform millage rate on all real property not exempt by state law from the levy of the special assessment and complies with 1 of the following:

(a) The special assessment is levied in the entire city, village, or township and is levied and based on state equalized valuation or taxable value.

(b) The special assessment is for police, fire, or advanced life support, is levied in the entire township excluding all or a portion of a village within the township, and is levied and based on state equalized valuation or taxable value.

**History:** Add. 2003, Act 28, Imd. Eff. June 26, 2003.

#### **206.514 "Senior citizen," "serviceperson," and "state income tax" defined.**

Sec. 514. (1) "Senior citizen" means an individual, or either 1 of 2 persons filing a joint tax return under this part, who is 65 years of age or older at the close of the tax year. The term also includes the unremarried surviving spouse of a person who was 65 years of age or older at the time of death.

(2) "Serviceperson" means a person who is currently serving in the armed forces of the United States or is separated from the armed forces for less than a year, and who was a resident of this state at least 6 months prior to the time of entering the armed forces or was a resident of this state at least 5 years prior to filing a claim under this chapter.

(3) "State income tax" or "state income tax act" means the tax levied by this part.

**History:** Add. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1974, Act 156, Imd. Eff. June 20, 1974;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

#### **206.516 "Veteran" and "widow or widower" defined.**

Sec. 516. (1) "Veteran" means an individual who meets all of the following:

(a) Is a veteran as defined in section 1 of 1965 PA 90, MCL 35.61.

(b) Was a resident of this state at least 6 months prior to the time of entering the armed forces of the United States or was a resident of this state for at least 5 years prior to filing a claim under this chapter.

(c) Served in the armed forces during a period of war as described in 38 CFR 3.2, except that for purposes of this subdivision, "period of war" for the Vietnam era means the following:

(i) February 28, 1961 through May 7, 1975 for a veteran who served during that period.

(ii) On or after January 31, 1955 in an area of hazardous duty for which the veteran received an armed forces expeditionary medal or Vietnam service medal.

(d) Was discharged from service in the armed forces of the United States under honorable conditions or died while in service not as a result of his or her own misconduct.

(2) "Widow or widower" means the unmarried surviving spouse of a veteran or serviceperson who receives a widow's or widower's pension from the United States Department of Veterans Affairs. Widow or widower includes the unremarried surviving spouse of the person who previously qualified as a claimant.

**History:** Add. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987;—Am. 2016, Act 212, Eff. Sept. 20, 2016.

#### **206.520 Credit for property taxes on homestead; credit for person renting or leasing homestead; credit in excess of tax liability due; assignment of claim to mortgagor by senior citizen for rent reduction; eligibility to claim credit on property rented or leased as credit for person receiving aid to families with dependent children, state family assistance, or state disability assistance payments; reduction of credit for claimant whose household income exceeds certain amount; adjustment; credit claimable by senior citizen; limitations; rules; form; determining qualification to claim credit after move to different rented or leased homestead; reduction of claim for return of less than 12 months; total credit allowed by section and MCL 206.522; "United States consumer price index" defined.**

Sec. 520. (1) Subject to the limitations and the definitions in this chapter, a claimant may claim against the tax due under this part for the tax year a credit for the property taxes on the taxpayer's homestead deductible for federal income tax purposes pursuant to section 164 of the internal revenue code, or that would have been

deductible if the claimant had not elected the zero bracket amount or if the claimant had been subject to the federal income tax. The property taxes used for the credit computation shall not be greater than the amount levied for 1 tax year. An owner is not eligible for a credit under this section if the taxable value of his or her homestead excluding the portion of a parcel of real property that is unoccupied and classified as agricultural for ad valorem tax purposes in the year for which the credit is claimed is greater than \$135,000.00 through the 2021 tax year. Beginning with the 2021 tax year and each tax year after 2021, the taxable value cap under this subsection for the immediately preceding tax year shall be adjusted by the percentage increase in the United States consumer price index for the immediately preceding calendar year and rounded to the nearest \$100.00 increment. The department shall annualize the amount in this subsection as necessary. As used in this subsection, "taxable value" means that value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(2) A person who rents or leases a homestead may claim a similar credit computed under this section and section 522 based upon 20% of the gross rent paid for tax years before the 2018 tax year or 23% of the gross rent paid for tax years after the 2017 tax year. A person who rents or leases a homestead subject to a service charge in lieu of ad valorem taxes as provided by section 15a of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1415a, may claim a similar credit computed under this section and section 522 based upon 10% of the gross rent paid.

(3) If the credit claimed under this section and section 522 exceeds the tax liability for the tax year or if there is no tax liability for the tax year, the amount of the claim not used as an offset against the tax liability shall, after examination and review, be approved for payment, without interest, to the claimant. In determining the amount of the payment under this subsection, withholdings and other credits shall be used first to offset any tax liabilities.

(4) If the homestead is an integral part of a multipurpose or multidwelling building that is federally aided housing or state aided housing, a claimant who is a senior citizen entitled to a payment under subsection (2) may assign the right to that payment to a mortgagor if the mortgagor reduces the rent charged and collected on the claimant's homestead in an amount equal to the tax credit payment provided in this chapter. The assignment of the claim is valid only if the Michigan state housing development authority, by affidavit, verifies that the claimant's rent has been so reduced.

(5) Only the renter or lessee shall claim a credit on property that is rented or leased as a homestead.

(6) A person who discriminates in the charging or collection of rent on a homestead by increasing the rent charged or collected because the renter or lessee claims and receives a credit or payment under this chapter is guilty of a misdemeanor. Discrimination against a renter who claims and receives the credit under this section and section 522 by a reduction of the rent on the homestead of a person who does not claim and receive the credit is a misdemeanor. If discriminatory rents are charged or collected, each charge or collection of the higher or lower payment is a separate offense. Each acceptance of a payment of rent is a separate offense.

(7) A person who received aid to families with dependent children, state family assistance, or state disability assistance pursuant to the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, in the tax year for which the person is filing a return shall have a credit that is authorized and computed under this section and section 522 reduced by an amount equal to the product of the claimant's credit multiplied by the quotient of the sum of the claimant's aid to families with dependent children, state family assistance, and state disability assistance for the tax year divided by the claimant's total household resources. The reduction of credit shall not exceed the sum of the aid to families with dependent children, state family assistance, and state disability assistance for the tax year. For the purposes of this subsection, aid to families with dependent children does not include child support payments that offset or reduce payments made to the claimant.

(8) For tax years before the 2018 tax year, a credit under subsection (1) or (2) shall be reduced by 10% for each claimant whose total household resources exceed the minimum total household resources amount of \$41,000.00 and by an additional 10% for each increment of \$1,000.00 of total household resources in excess of \$41,000.00. Except as otherwise provided under this subsection, for the 2018 tax year and each tax year after 2018, the minimum total household resources amount is \$51,000.00. For the 2018 tax year and each tax year after 2018, a credit under subsection (1) or (2) shall be reduced by 10% for each claimant whose total household resources exceed the minimum total household resources amount established under this subsection and by an additional 10% for each increment of \$1,000.00 of total household resources in excess of the minimum total household resources amount for that tax year. For the 2021 tax year and each tax year after 2021, the minimum total household resources threshold amount established under this subsection for the immediately preceding tax year shall be adjusted by the percentage increase in the United States consumer price index for the immediately preceding calendar year and rounded to the nearest \$100.00 increment.

(9) If the credit authorized and calculated under this section and section 522 and adjusted under subsection (7) or (8) does not provide to a senior citizen who rents or leases a homestead that amount attributable to rent



that constitutes more than 40% of the total household resources of the senior citizen, the senior citizen may claim a credit based upon the amount of total household resources attributable to rent as provided by this section.

(10) A senior citizen whose gross rent paid for the tax year is more than the percentage of total household resources specified in subsection (9) for the respective tax year may claim a credit for the amount of rent paid that constitutes more than the percentage of the total household resources of the senior citizen specified in subsection (9) and that was not provided to the senior citizen by the credit computed pursuant to this section and section 522 and adjusted pursuant to subsection (7) or (8).

(11) The department may promulgate rules to implement subsections (9) to (15) and may prescribe a table to allow a claimant to determine the credit provided under this section and section 522 in the instruction booklet that accompanies the respective income tax or property tax credit forms used by claimants.

(12) A senior citizen may claim the credit under subsections (9) to (15) on the same form as the property tax credit permitted by subsection (2). The department shall adjust the forms accordingly.

(13) A senior citizen who moves to a different rented or leased homestead shall determine, for 2 tax years after the move, both his or her qualification to claim a credit under subsections (9) to (15) and the amount of a credit under subsections (9) to (15) on the basis of the annualized final monthly rental payment at his or her previous homestead, if this annualized rental is less than the senior citizen's actual annual rental payments.

(14) For a return of less than 12 months, the claim for a credit under subsections (9) to (15) shall be reduced proportionately.

(15) For tax years before the 2018 tax year, the total credit allowed by this section and section 522 shall not exceed \$1,200.00 per year. Except as otherwise provided under this subsection, for the 2018 tax year and each tax year after 2018, the total credit allowed by this section and section 522 shall not exceed \$1,500.00 per year. Beginning with the 2021 tax year and each tax year after 2021, the maximum amount of the credit allowed under this section and section 522 for the immediately preceding tax year shall be adjusted by the percentage increase in the United States consumer price index for the immediately preceding calendar year. The department shall round the amount to the nearest \$100.00 increment.

(16) As used in this section, "United States consumer price index" means the United States consumer price index for all urban consumers as defined and reported by the United States Department of Labor, Bureau of Labor Statistics.

**History:** Add. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975;—Am. 1979, Act 132, Eff. Mar. 27, 1980;—Am. 1980, Act 352, Imd. Eff. Dec. 29, 1980;—Am. 1982, Act 269, Imd. Eff. Oct. 5, 1982;—Am. 1982, Act 515, Imd. Eff. Dec. 31, 1982;—Am. 1984, Act 285, Imd. Eff. Dec. 20, 1984;—Am. 1985, Act 187, Imd. Eff. Dec. 20, 1985;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987;—Am. 1988, Act 516, Imd. Eff. Dec. 30, 1988;—Am. 1990, Act 283, Imd. Eff. Dec. 14, 1990;—Am. 1992, Act 293, Imd. Eff. Dec. 18, 1992;—Am. 1993, Act 328, Eff. Apr. 1, 1994;—Am. 1995, Act 245, Imd. Eff. Dec. 27, 1995;—Am. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 273, Eff. Jan. 1, 2012;—Am. 2015, Act 179, Eff. Mar. 18, 2016.

**Constitutionality:** The provision in the Income Tax Act for an income-graduated reduction of local property tax credits does not conflict with the constitutional prohibition against a graduated income tax because the property tax credit is payable to the property taxpayer irrespective of state income tax liability. *Butcher v Department of Treasury*, 425 Mich 262; 389 NW2d 412 (1986).

**Compiler's note:** Act 253 of 1980, purporting to amend MCL 206.30, 206.512, 206.520, and 206.522 and to add a MCL 206.261 could not take effect until Senate Joint Resolution X became effective as part of the constitution. Senate Joint Resolution X was submitted to, and disapproved by, the people at the general election held on November 4, 1980.

Section 2 of Act 515 of 1982 provides: "(1) Section 255 of this amendatory act shall be effective for the 1979 tax year and each tax year thereafter.

(2) Section 301 of this amendatory act shall take effect for tax years beginning on or after January 1, 1983.

(3) Section 520 of this amendatory act shall take effect for tax years beginning on or after January 1, 1981."

Section 2 of Act 187 of 1985 provides: "It is the intent of the legislature that this amendatory act shall not serve to affect a credit claimed under section 520 before the effective date of this amendatory act."

Act 486 of 1988, purporting to amend MCL 206.520 and 206.522, could not take effect "unless Senate Joint Resolution K of the 84th Legislature becomes a part of the constitution as provided in section 1 of article XII of the state constitution of 1963." Senate Joint Resolution K was submitted to, and disapproved by, the people at the general election held on November 8, 1988.

Act 166 of 1989, purporting to amend MCL 206.520 and 206.522 and to add a MCL 206.252, could not take effect "unless amendment 2 of House Joint Resolution I of the 85th Legislature becomes a part of the constitution as provided in section 1 of article XII of the state constitution of 1963." House Joint Resolution I was submitted to, and disapproved by, the people at the special election held on November 7, 1989.

## **206.522 Determination of amount of claim; election of classification in which to make claims; single claimant per household entitled to credit; "totally and permanently disabled" defined; computation of credit by senior citizen; reduction of claim; tables; maximum credit; total credit allowable under part and part 361 of natural resources and environmental protection act.**

Sec. 522. (1) The amount of a claim made pursuant to this chapter shall be determined as follows:

(a) A claimant who is not a senior citizen is entitled to a credit against the state income tax liability under this part equal to 60% of the amount by which the property taxes on the homestead, or the credit for rental of the homestead for the tax year, exceeds 3.5% of the claimant's total household resources for tax years before the 2018 tax year or 3.2% of the claimant's total household resources for the 2018 tax year and each tax year after 2018.

(b) A claimant who is a senior citizen is entitled to a credit against the state income tax liability under this part equal to the following:

(i) For a claimant with total household resources of \$21,000.00 or less, an amount as determined in accordance with subdivision (c).

(ii) For a claimant with total household resources of more than \$21,000.00 and less than or equal to \$22,000.00, an amount equal to 96% of the difference between the property taxes on the homestead or the credit for rental of the homestead for the tax year and 3.5% of total household resources for tax years before the 2018 tax year or 3.2% of total household resources for the 2018 tax year and each tax year after 2018.

(iii) For a claimant with total household resources of more than \$22,000.00 and less than or equal to \$23,000.00, an amount equal to 92% of the difference between the property taxes on the homestead or the credit for rental of the homestead for the tax year and 3.5% of total household resources for tax years before the 2018 tax year or 3.2% of total household resources for the 2018 tax year and each tax year after 2018.

(iv) For a claimant with total household resources of more than \$23,000.00 and less than or equal to \$24,000.00, an amount equal to 88% of the difference between the property taxes on the homestead or the credit for rental of the homestead for the tax year and 3.5% of total household resources for tax years before the 2018 tax year or 3.2% of total household resources for the 2018 tax year and each tax year after 2018.

(v) For a claimant with total household resources of more than \$24,000.00 and less than or equal to \$25,000.00, an amount equal to 84% of the difference between the property taxes on the homestead or the credit for rental of the homestead for the tax year and 3.5% of total household resources for tax years before the 2018 tax year or 3.2% of total household resources for the 2018 tax year and each tax year after 2018.

(vi) For a claimant with total household resources of more than \$25,000.00 and less than or equal to \$26,000.00, an amount equal to 80% of the difference between the property taxes on the homestead or the credit for rental of the homestead for the tax year and 3.5% of total household resources for tax years before the 2018 tax year or 3.2% of total household resources for the 2018 tax year and each tax year after 2018.

(vii) For a claimant with total household resources of more than \$26,000.00 and less than or equal to \$27,000.00, an amount equal to 76% of the difference between the property taxes on the homestead or the credit for rental of the homestead for the tax year and 3.5% of total household resources for tax years before the 2018 tax year or 3.2% of total household resources for the 2018 tax year and each tax year after 2018.

(viii) For a claimant with total household resources of more than \$27,000.00 and less than or equal to \$28,000.00, an amount equal to 72% of the difference between the property taxes on the homestead or the credit for rental of the homestead for the tax year and 3.5% of total household resources for tax years before the 2018 tax year or 3.2% of total household resources for the 2018 tax year and each tax year after 2018.

(ix) For a claimant with total household resources of more than \$28,000.00 and less than or equal to \$29,000.00, an amount equal to 68% of the difference between the property taxes on the homestead or the credit for rental of the homestead for the tax year and 3.5% of total household resources for tax years before the 2018 tax year or 3.2% of total household resources for the 2018 tax year and each tax year after 2018.

(x) For a claimant with total household resources of more than \$29,000.00 and less than or equal to \$30,000.00, an amount equal to 64% of the difference between the property taxes on the homestead or the credit for rental of the homestead for the tax year and 3.5% of total household resources for tax years before the 2018 tax year or 3.2% of total household resources for the 2018 tax year and each tax year after 2018.

(xi) For a claimant with total household resources of more than \$30,000.00, an amount equal to 60% of the difference between the property taxes on the homestead or the credit for rental of the homestead for the tax year and 3.5% of total household resources for tax years before the 2018 tax year or 3.2% of total household resources for the 2018 tax year and each tax year after 2018.

(c) A claimant who is a senior citizen with total household resources of \$21,000.00 or less or a paraplegic, hemiplegic, or quadriplegic and for tax years that begin after December 31, 1999, a claimant who is totally and permanently disabled, deaf, or, for tax years that begin after December 31, 2012, blind is entitled to a credit against the state income tax liability for the amount by which the property taxes on the homestead, the credit for rental of the homestead, or a service charge in lieu of ad valorem taxes as provided by section 15a of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1415a, for the tax year exceeds the percentage of the claimant's total household resources for that tax year computed as follows:

Total household resources	Percentage
Not over \$3,000.00	.0%

Over \$3,000.00 but not over \$4,000.00	1.0%
Over \$4,000.00 but not over \$5,000.00	2.0%
Over \$5,000.00 but not over \$6,000.00	3.0%
Over \$6,000.00 for tax years before the 2018 tax year	3.5%
Over \$6,000.00 for tax years after the 2017 tax year	3.2%

(d) A claimant who is an eligible serviceperson, eligible veteran, or eligible widow or widower is entitled to a credit against the state income tax liability for a percentage of the property taxes on the homestead for the tax year not in excess of 100% determined as follows:

(i) Divide the taxable value allowance specified in section 506 by the taxable value of the homestead or, if the eligible serviceperson, eligible veteran, or eligible widow or widower leases or rents a homestead, divide 20% of the total annual rent paid for tax years before the 2018 tax year or 23% of the total annual rent paid for tax years after the 2017 tax year on the property by the property tax rate on the property.

(ii) Multiply the property taxes on the homestead by the percentage computed in subparagraph (i).

(e) A claimant who is blind is entitled to a credit against the state income tax liability for a percentage of the property taxes on the homestead for the tax year determined as follows:

(i) If the taxable value of the homestead is \$3,500.00 or less, 100% of the property taxes.

(ii) If the taxable value of the homestead is more than \$3,500.00, the percentage that \$3,500.00 bears to the taxable value of the homestead.

(2) A person who is qualified to make a claim under more than 1 classification shall elect the classification under which the claim is made.

(3) Only 1 claimant per household for a tax year is entitled to the credit, unless both the husband and wife filing a joint return are blind, then each shall be considered a claimant.

(4) As used in this section, "totally and permanently disabled" means disability as defined in section 216 of title II of the social security act, 42 USC 416.

(5) A senior citizen who has total household resources for the tax year of \$6,000.00 or less and who for 1973 received a senior citizen homestead exemption under former section 7c of the general property tax act, 1893 PA 206, may compute the credit against the state income tax liability for a percentage of the property taxes on the homestead for the tax year determined as follows:

(a) If the taxable value of the homestead is \$2,500.00 or less, 100% of the property taxes.

(b) If the taxable value of the homestead is more than \$2,500.00, the percentage that \$2,500.00 bears to the taxable value of the homestead.

(6) For a return of less than 12 months, the claim shall be reduced proportionately.

(7) The department may prescribe tables that may be used to determine the amount of the claim.

(8) The total credit allowed in this section for each year shall not exceed the amount determined under section 520.

(9) The total credit allowable under this part and part 361 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.36101 to 324.36117, shall not exceed the total property tax due and payable by the claimant in that year. The amount by which the credit exceeds the property tax due and payable shall be deducted from the credit claimed under part 361 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.36101 to 324.36117.

**History:** Add. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1974, Act 12, Imd. Eff. Feb. 15, 1974;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975;—Am. 1975, Act 320, Imd. Eff. Jan. 2, 1976;—Am. 1978, Act 321, Imd. Eff. July 10, 1978;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987;—Am. 1993, Act 328, Eff. Apr. 1, 1994;—Am. 1996, Act 55, Imd. Eff. Feb. 26, 1996;—Am. 1996, Act 484, Eff. Jan. 1, 1996;—Am. 2000, Act 41, Imd. Eff. Mar. 27, 2000;—Am. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 180, Eff. Jan. 1, 2012;—Am. 2013, Act 206, Imd. Eff. Dec. 23, 2013;—Am. 2015, Act 179, Eff. Mar 18, 2016.

**Compiler's note:** Act 253 of 1980, purporting to amend MCL 206.30, 206.512, 206.520, and 206.522 and to add a MCL 206.261 could not take effect until Senate Joint Resolution X became effective as part of the constitution. Senate Joint Resolution X was submitted to, and disapproved by, the people at the general election held on November 4, 1980.

Act 486 of 1988, purporting to amend MCL 206.520 and 206.522, could not take effect "unless Senate Joint Resolution K of the 84th Legislature becomes a part of the constitution as provided in section 1 of article XII of the state constitution of 1963." Senate Joint Resolution K was submitted to, and disapproved by, the people at the general election held on November 8, 1988.

Act 166 of 1989, purporting to amend MCL 206.520 and 206.522 and to add a MCL 206.252, could not take effect "unless amendment 2 of House Joint Resolution I of the 85th Legislature becomes a part of the constitution as provided in section 1 of article XII of the state constitution of 1963." House Joint Resolution I was submitted to, and disapproved by, the people at the special election held on November 7, 1989.

Subsection (1) of Section 3 of Act 484 provides:

"Section 3. (1) Sections 264, 274, 439, 440, 471, 475, 506, 512, 522, and 527a of Act No. 281 of the Public Acts of 1967, as amended by this amendatory act, are retroactive and effective January 1, 1996."

**Compiler's note:** Enacting section 1 of Act 469 of 2014 provides:

"Enacting section 1. This amendatory act does not take effect unless House Joint Resolution UU of the 97th Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

House Joint Resolution UU was presented to the electors as Proposal 15-1 at the May 5, 2015 special election. The proposal to amend the constitution was not approved by the voters and Act 469 of 2014 does not go into effect.

### **206.523 Repealed. 1980, Act 169, Eff. Sept. 17, 1980.**

**Compiler's note:** The repealed section pertained to credit for sales tax paid on food and prescription drugs.

### **206.524 Credit adjustment; sale or transfer of homestead.**

Sec. 524. (1) If the amount of the property taxes used as a basis for the credit computation differs from the property tax liability incurred and paid by the taxpayer for the tax year, the credit for the ensuing year shall be adjusted by the amount of the difference.

(2) If homestead property subject to ad valorem taxes is sold or transferred during the tax year, the respective amounts of credit shall be based on the ratio of days that the property was the claimant's homestead to the total number of days in the tax year.

**History:** Add. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987.

### **206.525 Repealed. 1980, Act 169, Eff. Sept. 17, 1980.**

**Compiler's note:** The repealed section pertained to advance payment of expected property tax credit.

### **206.526 Right to file claim; payment of claim upon death of claimant; escheat.**

Sec. 526. The right to file a claim is personal to the claimant. The right may be exercised on behalf of a claimant by an agent, guardian, attorney-in-fact, executor or administrator, or other persons charged with the care of the person or property of a claimant. When a claimant dies before he could have filed or after having filed a timely claim, the amount thereof may be paid to another member of the household or to the mortgagor of the state or federally aided housing, which is a multipurpose or multidwelling building, who has reduced the rent on the claimant's homestead because of the tax credit and payment provided in this chapter as determined by the department. If the claimant was the only member of his household and was not renting his homestead in a multipurpose or multidwelling building that is state or federally aided housing, the claim shall be paid to his executor or administrator, but if neither is appointed within 2 years after the filing of the claim, the amount of the claim shall escheat to the state.

**History:** Add. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

### **206.527 Repealed. 1990, Act 283, Imd. Eff. Dec. 14, 1990.**

**Compiler's note:** The repealed section pertained to credit for heating fuel costs for homestead.

### **206.527a Credit for heating fuel costs for homestead; home weatherization assistance; study; rules; direct vendor payments by department of health and human services; federal appropriation; methods of improving processing of claims; reporting requirements; definitions.**

Sec. 527a. (1) Subject to subsections (18) and (19), a claimant may claim a credit for heating fuel costs for the claimant's homestead in this state. An adult foster care home, nursing home, home for the aged, or substance abuse center is not a homestead for purposes of this section. The credit shall be determined in the following manner:

(a) Subject to subsections (18) and (19), the following table shall be used for the computation of a credit as computed under subdivision (c):

Exemptions	0 or 1	2	3	4	5	6 or more
Credit	\$272	\$326	\$379	\$450	\$525	\$601 + \$76 for each exemption over 6

(b) The amounts in the table in subdivision (a) shall be adjusted each year as necessary by the department so that a claimant with total household resources of less than 110% of the federal poverty income standards as defined and determined annually by the United States Office of Management and Budget is not denied a credit.

(c) A claimant shall receive the greater of the credit amount as determined in subparagraph (i) or (ii):

(i) Subtract 3.5% of the claimant's total household resources from the amount specified in subdivision (a) that corresponds with the number of exemptions claimed in the return filed under this part, except that the number of exemptions for purposes of this subdivision shall not exceed the actual number of persons living in the household plus the additional personal exemptions allowed under section 30, and any dependency

exemptions for a person or persons living in the household under a custodial arrangement, even if the exemptions may not be claimed for other income tax purposes. For a claimant whose heating costs are included in his or her rent, multiply the result of the preceding calculation by 50%.

(ii) Subject to subsection (2), for a claimant whose total household resources do not exceed the maximum specified in the following table, as adjusted, that corresponds with the number of exemptions claimed in the return filed under this part, subtract 11% of claimant's total household resources from the total cost incurred by a claimant for heating fuel from a heating fuel provider during the 12 consecutive monthly billing periods ending in October of the tax year, and multiply the resulting amount by 70%:

Exemptions	0 or 1	2	3	4	5	For each exemption over 5, add \$2,441.00 to the maximum total household resources
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Maximum Total Household Resources	\$7,060	\$9,501	\$11,943	\$14,382	\$16,824
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(d) The maximum cost incurred by a claimant for heating fuel during a tax year shall be adjusted by multiplying the maximum cost for the immediately preceding tax year by the percentage by which the average all urban Detroit Consumer Price Index for fuels and other utilities for the 12 months ending August 31 of the tax year for which the credit is claimed exceeds that index's average for the 12 months ending on August 31 of the previous tax year, but not more than 10%. That product shall be added to the maximum cost of the immediately preceding tax year and then rounded to the nearest whole dollar. That dollar amount is the new maximum cost for the current tax year. If the claimant received any credits to his or her heating bill during the tax year, as provided for in subsection (6), the credits shall be treated as costs incurred by the claimant.

(e) The maximum total household resources specified in subdivision (c)(ii) shall be adjusted by multiplying the respective maximum total household resources for the immediately preceding tax year by the percentage by which the average all urban Detroit Consumer Price Index for all items for the 12 months ending August 31 of the tax year for which the credit is claimed exceeds that index's average for the 12 months ending on August 31 of the immediately preceding tax year, but not more than 10%. That product shall be added to the immediately preceding tax year's respective maximum total household resources and then rounded to the nearest whole dollar. That dollar amount is the new maximum level for total household resources for the then current tax year.

(2) An enrolled heating fuel provider shall notify each of its customers, not later than December 15 of each year, of the availability, upon request, of the information necessary for determining the credit under this section. For a claimant for whom, at the time of filing, the department of health and human services is making direct vendor payments to an enrolled heating fuel provider, the enrolled heating fuel provider that accepts the direct payments shall provide the information necessary to determine the credit before February 1 of each year. If an enrolled heating fuel provider refuses or fails to provide to a customer the information required to determine the credit, or if the claimant is not a customer of an enrolled heating fuel provider, a claimant may determine the credit provided in subsection (1)(c)(i) based on his or her own records.

(3) A credit claimed on a return that covers a period of less than 12 months shall be calculated based on subsection (1)(c)(i) and shall be reduced proportionately.

(4) The allowable amount of the credit under this section shall be remitted to the claimant, other than a claimant whose heating costs are included in his or her rent, in the form of an energy draft that states the name of the claimant and is issued by the department. For a claimant for whom, at the time of filing, the department of health and human services has identified the enrolled heating fuel provider or is making direct vendor payments to an enrolled heating fuel provider, the department shall send the energy draft directly to the claimant's enrolled heating fuel provider, as identified by the claimant. If the department establishes a program or pilot program for the direct payment of energy drafts to enrolled heating fuel providers, enrolled heating fuel providers may submit to the department, in a manner prescribed by the department, the names of their customers who are claimants. If a claimant whose name has been submitted meets the standards established by the department, the department shall send that claimant's energy draft directly to the claimant's

enrolled heating fuel provider. If the enrolled heating fuel provider submits names of claimants who are not its customers and the energy drafts of any of those claimants are sent to the enrolled heating fuel provider, the enrolled heating fuel provider shall return the energy drafts or pay the value of the energy drafts to the department plus interest on the amount of the energy drafts at the rate calculated under section 23 of 1941 PA 122, MCL 205.23, for deficiencies in tax payments. Except as provided in subsection (5), after July 31, a refundable credit for a prior tax year may be paid in the form of a negotiable warrant. The energy draft shall be negotiable only through the claimant's enrolled heating fuel provider upon remittance by the claimant.

(5) If a claimant received home heating assistance from the department of health and human services, a governmental agency, or a nonprofit organization 12 months prior to remitting an energy draft to the claimant's enrolled heating fuel provider and the amount of the energy draft is greater than the total of outstanding bills incurred by the claimant with the enrolled heating fuel provider as of the date that the energy draft was remitted to the enrolled heating fuel provider, the enrolled heating fuel provider shall first apply the full amount of the energy draft to the claimant's outstanding bills and then apply any remaining amount to subsequent bills of the claimant until the full amount of the energy draft is used up or the expiration of 9 months after the date on which the energy draft was first applied to cover the claimant's outstanding bills. If there is any remaining energy draft amount at the end of the 9-month period, or if before the end of the 9-month period the claimant is no longer a customer of the enrolled heating fuel provider, the enrolled heating fuel provider shall remit the remaining amount to the claimant in the form of a fully negotiable check within 14 days after the end of the 9-month period or 14 days after the termination of services, whichever occurs sooner. If the claimant did not receive home heating assistance from the department of health and human services, a governmental agency, or a nonprofit organization 12 months prior to remitting an energy draft, the claimant, by checking the appropriate box to be included on the energy draft or application for participation with an enrolled heating fuel provider, may request from the enrolled heating fuel provider a payment equal to the amount of the energy draft less the amount of the outstanding bills. The enrolled heating fuel provider shall issue the payment within 14 days after the claimant's request. For purposes of this subsection, home heating assistance does not include the credit allowed under this section.

(6) If a claimant whose energy draft exceeds his or her outstanding bills does not request a payment from an enrolled heating fuel provider under subsection (5), an energy draft remitted to an enrolled heating fuel provider shall be applied upon receipt to the claimant's designated account. The energy draft may be used to cover outstanding bills that the claimant has incurred with the enrolled heating fuel provider and to cover subsequent heating costs until the full amount of the energy draft is used or until 1 year after the date on which the energy draft is first applied to the claimant's designated account. If a credit amount remains from this energy draft after the 1-year period, or if prior to the end of the 1-year period a claimant is no longer a customer of the enrolled heating fuel provider, the heating fuel provider shall remit the remaining unused portion to the claimant in the form of a fully negotiable check within 14 days after the end of the 1-year period or within 14 days after termination of service, whichever is sooner.

(7) A claimant who is no longer a resident of this state, who is not a customer of an enrolled heating fuel provider, or whose heating fuel provider refuses to accept an energy draft shall return the energy draft to the department and request the issuance of a negotiable warrant. A claimant may return an energy draft to the department and request issuance of a negotiable warrant if the energy draft is impractical because the claimant has already purchased his or her energy supply for the year and does not have an outstanding obligation to an enrolled heating fuel provider. The department may honor that request if it agrees that the use of the energy draft is impractical. The department shall issue the warrant within 14 days after receiving the energy draft from the claimant.

(8) The enrolled heating fuel provider shall bill the department for credit amounts that have been applied to claimant accounts pursuant to subsection (6), and the department shall pay the bills within 14 days of receipt. The billing shall be accompanied by the energy drafts for which reimbursement is claimed.

(9) A claimant whose heating fuel is provided by a utility regulated by the Michigan public service commission is protected against the discontinuance of his or her heating fuel service from the date of filing a claim for the credit under this section through the date of issuance of an energy draft and during a period beginning December 1 of the tax year for which the credit is claimed and ending March 31 of the following year if the claimant participates in the winter protection program set forth in R 460.148 of the Michigan Administrative Code or if the utility accepts the claimant's energy draft. The acceptance of an energy draft by a utility is considered a request by the claimant for the winter protection program. The energy draft shall be coded by the department to denote claimants who are 65 years of age or older. If the claimant is a claimant whose heating cost is included in his or her rent payments, the amount of the claim not used as an offset against the state income tax, after examination and review, shall be approved for payment, without interest, to the claimant.

(10) If an enrolled heating fuel provider does not issue a payment or a negotiable check within 14 days or as otherwise provided in subsection (5) or (6), beginning on the fifteenth day or the fifteenth day after the expiration of the 9-month period under subsection (5), the amount due to the claimant is increased by adding interest computed on the basis of the rate of interest prescribed for delayed refunds of excess tax payments in section 30(3) of 1941 PA 122, MCL 205.30. The enrolled heating fuel provider shall pay the interest and shall not bill the interest to or be reimbursed for the interest by the department.

(11) Only the renter or lessee shall claim a credit on property that is rented or leased as a homestead. Only 1 credit may be claimed for a household. The credit under this section is in addition to other credits to which the claimant is entitled under this part. A person who is a full-time student at a school, community college, or college or university and who is claimed as a dependent by another person is not eligible for the credit provided by this section. A claimant who shares a homestead with other eligible claimants shall prorate the credit by the number of claimants sharing the homestead.

(12) A claimant who is eligible for the credit provided by this section shall be referred by the department to the appropriate state agency for determination of eligibility for home weatherization assistance and shall accept weatherization assistance if eligible and if assistance is available. A heating fuel provider that is required by the Michigan public service commission to participate in the residential conservation services home energy analysis program shall annually contact each claimant to whom it provides heating fuel, and whose usage exceeds 200,000 cubic feet of natural gas or 18,000 kilowatt hours of electricity annually, and shall offer to provide a home energy analysis at no cost to the claimant. A heating fuel provider that is not required to participate in the residential conservation services program shall not be required to conduct a home energy analysis for its customers. For all rental properties that are weatherized pursuant to this section, each agency that determines eligibility for weatherization assistance shall require that not less than 25% of the total cost of the weatherization services for that property shall be contributed by the property owner unless the property owner is also eligible for weatherization assistance or is a nonprofit organization, governmental agency, or municipal corporation.

(13) If an enrolled heating fuel provider is regulated by the Michigan public service commission, the Michigan public service commission may use an enforcement method authorized by law or rule to enforce the requirements prescribed by this section on the enrolled heating fuel provider. If an enrolled heating fuel provider is not regulated by the Michigan public service commission, the department of health and human services may use an enforcement method authorized by law or rule to enforce the requirements prescribed by this section on the enrolled heating fuel provider.

(14) The department shall mail a home heating credit return to every person who received assistance through the department of health and human services pursuant to the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, during the tax year.

(15) The department shall complete a study by August 1 of 1985, and of each subsequent year, of the actual heating costs of each claimant who received a credit from the department under this section for the immediately preceding tax year.

(16) The department may promulgate rules necessary to administer this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(17) The department shall provide a simplified procedure for claiming the credit under this section for claimants for whom, at the time of filing, the department of health and human services is making direct vendor payments to an enrolled heating fuel provider.

(18) For the 2001 tax year and each tax year after the 2001 tax year, the credit under this section is allowed only if there has been a federal appropriation for the federal fiscal year beginning in the tax year of federal low income home energy assistance program block grant funds of any amount. If the amount of federal low income home energy assistance program block grant funds available for the home heating credit is less than the full home heating credit amount, each individual credit claimed under this section shall be reduced by multiplying the credit amount by a fraction, the numerator of which is the amount available for the home heating credit and the denominator of which is the full home heating credit amount. As used in this subsection, "amount available for the home heating credit" means the sum of the federal low income home energy assistance program block grant allotment for this state for the federal fiscal year beginning in the tax year and the amount as certified by the director of the department of health and human services carried forward from the immediately preceding fiscal year for the low income home energy assistance program block grant minus the sum of the amount certified by the director of the department of health and human services for administration of the low income home energy assistance program block grant, the amount certified by the director of the department of health and human services for crisis assistance programs, and the amount certified by the director of the department of health and human services for weatherization. For the 2014-2015 fiscal year and continuing through the 2021-2022 fiscal year, the amount used for weatherization

each fiscal year shall be determined as provided under this subsection. If the total federal low income home energy assistance program block grant received for the current fiscal year is greater than or equal to 90% of the amount of block grant funds received in the immediately preceding fiscal year, then the amount of federal low income home energy assistance program block grant funds used for weatherization for that fiscal year shall be at least \$6,000,000.00 but not greater than 15% of the total federal low income home energy assistance program block grant funds received for that fiscal year. If the total federal low income home energy assistance block grant received for the current fiscal year is less than 90% of the amount of block grant funds received in the immediately preceding fiscal year, then the amount of federal low income home energy assistance program block grant funds used for weatherization for that fiscal year shall be at least \$5,000,000.00 but not greater than 15% of the total federal low income home energy assistance program block grant funds received for that fiscal year. The amounts under this subsection that require certification by the director of the department of health and human services or by the state treasurer and the director of the department of technology, management, and budget shall be certified on or before December 30 of the tax year and each tax year thereafter. As used in this subsection, "full home heating credit amount" means the amount certified by the state treasurer and the director of the department of technology, management, and budget to be the estimated amount of the credits that would have been provided under this section for the tax year if no reduction as provided in this subsection were made for that tax year.

(19) For tax years after the 1994 tax year, a claimant who claims a credit under this section shall not report the credit amount on the claimant's income tax return filed under this part as an offset against the tax imposed by this part, but shall claim the credit on a separate form prescribed by the department. For tax years after the 1995 tax year, a credit claimed under this section shall not be allowed unless the claim for the credit is filed with the department on or before the September 30 immediately following the tax year for which the credit is claimed. For tax years after the 2017 tax year, a credit claimed under this section is not allowed unless the claimant provides the department with all of the information, as requested by the department of health and human services, necessary to comply with the requirements of the federal appropriation of the federal low income home energy assistance program block grant. The department shall disclose the information provided under this subsection to the department of health and human services or the United States Department of Health and Human Services or its successor. The confidentiality restrictions provided in section 28(1)(f) of 1941 PA 122, MCL 205.28, do not apply to the disclosure required by this subsection.

(20) Notwithstanding section 30a of 1941 PA 122, MCL 205.30a, the credit allowed under this section is exempt from interception, execution, levy, attachment, garnishment, or other legal process to collect a debt. No portion of the credit allowed or any rights existing under this section shall be applied as an offset to any liability of the claimant under section 30a of 1941 PA 122, MCL 205.30a, or any arrearage or other debt of the claimant.

(21) The department shall meet with interested parties including enrolled heating fuel providers and advocacy groups to identify and implement methods of improving the processing of claims for the credit allowed under this section and payments attributable to those credits.

(22) By July 1, 2018 and by each July 1 thereafter, the department of health and human services shall submit a report on the operation and effectiveness of the home heating and weatherization assistance programs under this section and any recommendations regarding the home heating and weatherization assistance programs to all of the following:

(a) The chairpersons and vice-chairpersons of the senate and house of representatives appropriations committees.

(b) The senate and house of representatives committees on taxation and finance related issues.

(c) The senate and house of representatives committees on energy and technology related issues.

(23) As used in this section:

(a) "Claimant whose heating costs are included in his or her rent" means a claimant whose rent includes the cost of heat at the time the claim for the credit under this section is filed.

(b) "Enrolled heating fuel provider" means a heating fuel provider that is enrolled with the department of health and human services as a heating fuel provider.

(c) "Heating fuel provider" means an individual or entity that provides a claimant with heating fuel or electricity for heating purposes.

**History:** Add. 1979, Act 126, Imd. Eff. Oct. 23, 1979;—Am. 1981, Act 152, Imd. Eff. Nov. 19, 1981;—Am. 1984, Act 36, Eff. Apr. 12, 1984;—Am. 1985, Act 158, Imd. Eff. Nov. 15, 1985;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987;—Am. 1988, Act 516, Imd. Eff. Dec. 30, 1988;—Am. 1989, Act 75, Imd. Eff. June 20, 1989;—Am. 1991, Act 181, Imd. Eff. Dec. 26, 1991;—Am. 1995, Act 245, Imd. Eff. Dec. 27, 1995;—Am. 1996, Act 484, Eff. Jan. 1, 1996;—Am. 2001, Act 169, Imd. Eff. Nov. 27, 2001;—Am. 2004, Act 335, Imd. Eff. Sept. 23, 2004;—Am. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2014, Act 523, Imd. Eff. Jan. 14, 2015;—Am. 2018, Act 161, Imd. Eff. May 23, 2018;—Am. 2018, Act 309, Imd. Eff. June 29, 2018.



**Compiler's note:** Section 2 of Act 181 of 1991 provides: "This amendatory act shall be effective for the 1991 tax year and each tax year after 1991."

Subsection (1) of Section 3 of Act 484 provides:

"Section 3. (1) Sections 264, 274, 439, 440, 471, 475, 506, 512, 522, and 527a of Act No. 281 of the Public Acts of 1967, as amended by this amendatory act, are retroactive and effective January 1, 1996."

Enacting section 1 of Act 335 of 2004 provides:

"Enacting section 1. This amendatory act is effective for tax years that begin after December 31, 2003."

### **206.528 Repealed. 1987, Act 254, Imd. Eff. Dec. 28, 1987.**

**Compiler's note:** The repealed section pertained to penalty for excessive or fraudulent claim.

### **206.530 Proof required; credit computation for homestead; unoccupied land used for agricultural or horticultural purposes; disallowance of claim; applying amount of claim against liability.**

Sec. 530. (1) The department may require reasonable proof from the claimant in support of rent paid, property taxes paid, total household resources, size and nature of the property claimed as a homestead, or any other information required for the administration of this chapter.

(2) If a homestead is occupied for less than a 12-month period, the credit computation shall be proportional to the period of occupancy. A claimant shall not occupy more than 1 homestead at 1 time. If more than 1 homestead is occupied during the tax year, the credit computation shall be proportional to the period of occupancy of each homestead, but not for a total period of more than 1 year.

(3) If unoccupied land is used for agricultural or horticultural purposes by the claimant, the credit shall be allowed only if the gross receipts of the agricultural or horticultural operations exceed the total household resources as defined in this part.

(4) A claim shall not be allowed if the department finds that the claimant received title to the homestead primarily for the purpose of receiving benefits under this chapter.

(5) The amount of a claim otherwise payable may be applied by the department against a liability outstanding on the books of the state against the claimant.

**History:** Add. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1975, Act 168, Imd. Eff. July 17, 1975;—Am. 1976, Act 379, Imd. Eff. Dec. 28, 1976;—Am. 1977, Act 1, Imd. Eff. Feb. 23, 1977;—Am. 1980, Act 517, Imd. Eff. Jan. 26, 1981;—Am. 1982, Act 480, Eff. Mar. 30, 1983;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

### **206.531 Repealed. 1976, Act 379, Imd. Eff. Dec. 28, 1976.**

**Compiler's note:** The repealed section pertained to deferment of summer taxes by certain persons.

### **206.532 Forms for claiming credit; provisions of act applicable to chapter.**

Sec. 532. The department shall prescribe forms for claiming the credit, which forms shall be a component part of the state income tax return. All provisions of this part including, but not limited to, audit, review, determinations, appeals, hearings, notices, assessments, and administration shall apply to this chapter.

**History:** Add. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1975, Act 168, Imd. Eff. July 17, 1975;—Am. 2011, Act 38, Eff. Jan. 1, 2012.

## PART 2

### CHAPTER 10

### **206.601 Meanings of terms; other provisions.**

Sec. 601. A term used in this part and not defined differently shall have the same meaning as when used in comparable context in the laws of the United States relating to federal income taxes in effect for the tax year unless a different meaning is clearly required. A reference in this part to the internal revenue code includes other provisions of the laws of the United States relating to federal income taxes.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012.

### **206.603 Definitions; A, B.**

Sec. 603. (1) "Affiliated group" means that term as defined in section 1504 of the internal revenue code except that it shall include all United States persons that are corporations, insurance companies, or financial institutions, other than a foreign operating entity, that are commonly owned, directly or indirectly, by any member of such affiliated group and other members of which more than 50% of the ownership interests with voting rights or ownership interests that confer comparable rights to voting rights of the member is directly or indirectly owned by a common owner or owners.

(2) "Business activity" means a transfer of legal or equitable title to or rental of property, whether real,

personal, or mixed, tangible or intangible, or the performance of services, or a combination thereof, made or engaged in, or caused to be made or engaged in, whether in intrastate, interstate, or foreign commerce, with the object of gain, benefit, or advantage, whether direct or indirect, to the taxpayer or to others, but does not include the services rendered by an employee to his or her employer or services as a director of a corporation. Although an activity of a taxpayer may be incidental to another or to others of his or her business activities, each activity shall be considered to be business engaged in within the meaning of this part.

(3) "Business income" means federal taxable income. For a tax-exempt taxpayer, business income means only that part of federal taxable income derived from unrelated business activity.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 173, Eff. Jan. 1, 2012;—Am. 2013, Act 266, Imd. Eff. Dec. 30, 2013.

**Compiler's note:** Enacting section 1 of Act 266 of 2013 provides:

"Enacting section 1. This amendatory act is effective for tax years that begin after December 31, 2012."

#### **206.605 Definitions; C to E.**

Sec. 605. (1) "Corporation" means a person that is required or has elected to file as a C corporation as defined under section 1361(a)(2) and section 7701(a)(3) of the internal revenue code. Corporation does not include an insurance company or a financial institution.

(2) "Department" means the department of treasury.

(3) "Employee" means an employee as defined in section 3401(c) of the internal revenue code. A person from whom an employer is required to withhold for federal income tax purposes is prima facie considered an employee.

(4) "Employer" means an employer as defined in section 3401(d) of the internal revenue code. A person required to withhold for federal income tax purposes is prima facie considered an employer.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 179, Eff. Jan. 1, 2012;—Am. 2011, Act 307, Eff. Jan. 1, 2012.

#### **206.607 Definitions; F to M.**

Sec. 607. (1) "Federal taxable income" means taxable income as defined in section 63 of the internal revenue code, except that federal taxable income shall be calculated as if section 168(k) and section 199 of the internal revenue code were not in effect.

(2) "Flow-through entity" means an entity that for the applicable tax year is treated as a subchapter S corporation under section 1362(a) of the internal revenue code, a general partnership, a trust, a limited partnership, a limited liability partnership, or a limited liability company, that for the tax year is not taxed as a corporation for federal income tax purposes. Flow-through entity does not include any entity disregarded under section 699.

(3) "Foreign operating entity" means a United States corporation that satisfies each of the following:

(a) Would otherwise be a part of a unitary business group that has at least 1 corporation included in the unitary business group that is taxable in this state.

(b) Has substantial operations outside the United States, the District of Columbia, any territory or possession of the United States except for the Commonwealth of Puerto Rico, or a political subdivision of any of the foregoing.

(c) At least 80% of its income is active foreign business income as defined in section 861(c)(1)(B) of the internal revenue code.

(4) "Gross receipts" means the entire amount received by the taxpayer from any activity whether in intrastate, interstate, or foreign commerce carried on for direct or indirect gain, benefit, or advantage to the taxpayer or to others except for the following:

(a) Proceeds from sales by a principal that the taxpayer collects in an agency capacity solely on behalf of the principal and delivers to the principal.

(b) Amounts received by the taxpayer as an agent solely on behalf of the principal that are expended by the taxpayer for any of the following:

(i) The performance of a service by a third party for the benefit of the principal that is required by law to be performed by a licensed person.

(ii) The performance of a service by a third party for the benefit of the principal that the taxpayer has not undertaken a contractual duty to perform.

(iii) Principal and interest under a mortgage loan or land contract, lease or rental payments, or taxes, utilities, or insurance premiums relating to real or personal property owned or leased by the principal.

(iv) A capital asset of a type that is, or under the internal revenue code will become, eligible for depreciation, amortization, or accelerated cost recovery by the principal for federal income tax purposes, or for real property owned or leased by the principal.

(v) Property not described under subparagraph (iv) purchased by the taxpayer on behalf of the principal and

that the taxpayer does not take title to or use in the course of performing its contractual business activities.

(vi) Fees, taxes, assessments, levies, fines, penalties, or other payments established by law that are paid to a governmental entity and that are the legal obligation of the principal.

(c) Amounts that are excluded from gross income of a foreign corporation engaged in the international operation of aircraft under section 883(a) of the internal revenue code.

(d) Amounts received by an advertising agency used to acquire advertising media time, space, production, or talent on behalf of another person.

(e) Notwithstanding any other provision of this section, amounts received by a taxpayer that manages real property owned by the taxpayer's client that are deposited into a separate account kept in the name of the taxpayer's client and that are not reimbursements to the taxpayer and are not indirect payments for management services that the taxpayer provides to that client.

(f) Proceeds from the taxpayer's transfer of an account receivable if the sale that generated the account receivable was included in gross receipts for federal income tax purposes. This subdivision does not apply to a taxpayer that during the tax year both buys and sells any receivables.

(g) Proceeds from any of the following:

(i) The original issue of stock or equity instruments.

(ii) The original issue of debt instruments.

(h) Refunds from returned merchandise.

(i) Cash and in-kind discounts.

(j) Trade discounts.

(k) Federal, state, or local tax refunds.

(l) Security deposits.

(m) Payment of the principal portion of loans.

(n) Value of property received in a like-kind exchange.

(o) Proceeds from a sale, transaction, exchange, involuntary conversion, or other disposition of tangible, intangible, or real property that is a capital asset as defined in section 1221(a) of the internal revenue code or land that qualifies as property used in the trade or business as defined in section 1231(b) of the internal revenue code, less any gain from the disposition to the extent that gain is included in federal taxable income.

(p) The proceeds from a policy of insurance, a settlement of a claim, or a judgment in a civil action less any proceeds under this subdivision that are included in federal taxable income.

(5) "Insurance company" means an authorized insurer as defined in section 108 of the insurance code of 1956, 1956 PA 218, MCL 500.108. Insurance company does not include a health maintenance organization authorized under chapter 35 of the insurance code of 1956, 1956 PA 218, MCL 500.3501 to 500.3573.

(6) "Internal revenue code" means the United States internal revenue code of 1986 in effect on January 1, 2018 or, at the option of the taxpayer, in effect for the tax year.

(7) "Member", when used in reference to a flow-through entity, means a shareholder of a subchapter S corporation, a partner in a general partnership, a limited partnership, or a limited liability partnership, a member of a limited liability company, or a beneficiary of a trust that is a flow-through entity.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 182, Imd. Eff. Jan. 1, 2012;—Am. 2011, Act 306, Eff. Jan. 1, 2012;—Am. 2018, Act 32, Imd. Eff. Feb. 21, 2018;—Am. 2018, Act 38, Imd. Eff. Feb. 28, 2018.

**Compiler's note:** Enacting section 1 of Act 32 of 2018 provides:

"Enacting section 1. This amendatory act is retroactive and effective for tax years that begin on and after January 1, 2016."

## 206.609 Definitions; P to S.

Sec. 609. (1) "Person" means an individual, bank, financial institution, insurance company, association, corporation, flow-through entity, receiver, estate, trust, or any other group or combination of groups acting as a unit.

(2) "Professional employer organization" means an organization, other than an organization whose business activities are included in industry group 736 under the standard industrial classification code as compiled by the United States department of labor, that provides the management and administration of the human resources of another entity by contractually assuming substantial employer rights and responsibilities through a professional employer agreement that establishes an employer relationship with the leased officers or employees assigned to the other entity by doing all of the following:

(a) Maintaining a right of direction and control of employees' work, although this responsibility may be shared with the other entity.

(b) Paying wages and employment taxes of the employees out of its own accounts.

(c) Reporting, collecting, and depositing state and federal employment taxes for the employees.

(d) Retaining a right to hire and fire employees.

(3) "Revenue mile" means the transportation for a consideration of 1 net ton in weight or 1 passenger the distance of 1 mile.

(4) "Sale" or "sales" means, except as provided in subdivision (e), the amounts received by the taxpayer as consideration from the following:

(a) The transfer of title to, or possession of, property that is stock in trade or other property of a kind that would properly be included in the inventory of the taxpayer if on hand at the close of the tax period or property held by the taxpayer primarily for sale to customers in the ordinary course of the taxpayer's trade or business. For intangible property, the amounts received shall be limited to any gain received from the disposition of that property.

(b) The performance of services that constitute business activities.

(c) The rental, lease, licensing, or use of tangible or intangible property, including interest that constitutes business activity.

(d) Any combination of business activities described in subdivisions (a), (b), and (c).

(e) For taxpayers not engaged in any other business activities, sales include interest, dividends, and other income from investment assets and activities and from trading assets and activities.

(5) "Shareholder" means a person who owns outstanding stock in a corporation or is a member of a business entity that files as a corporation for federal income tax purposes. An individual is considered as the owner of the stock, or the equity interest in a business entity that files as a corporation for federal income tax purposes, owned, directly or indirectly, by or for family members as defined by section 318(a)(1) of the internal revenue code.

(6) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country, or a political subdivision of any of the foregoing.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 176, Eff. Jan. 1, 2012.

#### **206.611 Definitions; T to U.**

Sec. 611. (1) "Tangible personal property" means that term as defined in section 2 of the use tax act, 1937 PA 94, MCL 205.92.

(2) "Tax" means the tax imposed under this part, including interest and penalties under this part, unless the term is given a more limited meaning in the context of this part or a provision of this part.

(3) "Tax-exempt person" means an organization that is exempt from federal income tax under section 501(a) of the internal revenue code, except the following:

(a) An organization exempt under section 501(c)(12) or (16) of the internal revenue code.

(b) An organization exempt under section 501(c)(4) of the internal revenue code that would be exempt under section 501(c)(12) of the internal revenue code but for its failure to meet the requirement in section 501(c)(12) that 85% or more of its income must consist of amounts collected from members.

(4) "Tax year" means the calendar year, or the fiscal year ending during the calendar year, upon the basis of which the tax base of a taxpayer is computed under this part. If a return is made for a fractional part of a year, tax year means the period for which the return is made. Except for the first return required by this part, a taxpayer's tax year is for the same period as is covered by its federal income tax return. A taxpayer that has a 52- or 53-week tax year beginning not more than 7 days before the end of any month is considered to have a tax year beginning on the first day of the subsequent month. A person included in a unitary business group that joins or departs the unitary business group other than at the end of that person's federal tax year shall have a tax year beginning with its federal income tax period and ending on the date of joining or departing the unitary business group, and another tax year beginning on the date immediately after joining or departing the unitary business group and ending with its federal income tax period. If the term tax year in this part is used in reference to 1 or more previous or preceding tax years and those referenced tax years are before January 1, 2012, then those referenced tax years are deemed those same tax years during which former 1975 PA 228 or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, applied.

(5) "Taxpayer" means a corporation, insurance company, financial institution, or unitary business group, whichever is applicable under each chapter, that is liable for a tax, interest, or penalty under this part. For purposes of chapters 11 and 14, taxpayer does not include an insurance company or a financial institution. For purposes of chapter 12, unless specifically included in the section, taxpayer does not include a corporation or a financial institution. For purposes of chapter 13, taxpayer does not include a corporation or an insurance company.

(6) "Unitary business group" means a group of United States persons that are corporations, insurance companies, or financial institutions, other than a foreign operating entity, 1 of which owns or controls, directly or indirectly, more than 50% of the ownership interest with voting rights or ownership interests that

confer comparable rights to voting rights of the other members, and that has business activities or operations which result in a flow of value between or among members included in the unitary business group or has business activities or operations that are integrated with, are dependent upon, or contribute to each other. Unitary business group includes an affiliated group that makes the election to be treated, and to file, as a unitary business group under section 691(2).

(7) "United States person" means that term as defined in section 7701(a)(30) of the internal revenue code.

(8) "Unrelated business activity" means, for a tax-exempt person, business activity directly connected with an unrelated trade or business as defined in section 513 of the internal revenue code.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 170, Eff. Jan. 1, 2012;—Am. 2013, Act 266, Imd. Eff. Dec. 30, 2013.

**Compiler's note:** Enacting section 1 of Act 266 of 2013 provides:

"Enacting section 1. This amendatory act is effective for tax years that begin after December 31, 2012."

## CHAPTER 11

### **206.621 Nexus; "actively solicits" and "physical presence" defined.**

Sec. 621. (1) Except as otherwise provided in this part, a taxpayer has substantial nexus in this state and is subject to the tax imposed under this part if the taxpayer has a physical presence in this state for a period of more than 1 day during the tax year, if the taxpayer actively solicits sales in this state and has gross receipts of \$350,000.00 or more sourced to this state, or if the taxpayer has an ownership interest or a beneficial interest in a flow-through entity, directly, or indirectly through 1 or more other flow-through entities, that has substantial nexus in this state.

(2) As used in this section:

(a) "Actively solicits" means either of the following:

(i) Speech, conduct, or activity that is purposefully directed at or intended to reach persons within this state and that explicitly or implicitly invites an order for a purchase or sale.

(ii) Speech, conduct, or activity that is purposefully directed at or intended to reach persons within this state that neither explicitly nor implicitly invites an order for a purchase or sale, but is entirely ancillary to requests for an order for a purchase or sale.

(b) "Physical presence" means any activity conducted by the taxpayer or on behalf of the taxpayer by the taxpayer's employee, agent, or independent contractor acting in a representative capacity. Physical presence does not include the activities of professionals providing services in a professional capacity or other service providers if the activity is not significantly associated with the taxpayer's ability to establish and maintain a market in this state.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 187, Eff. Jan. 1, 2012.

### **206.623 Corporate income tax; levy and imposition; base; adjustments; business income of unitary business group; "business loss" and "oil and gas" defined.**

Sec. 623. (1) Except as otherwise provided in this part, there is levied and imposed a corporate income tax on every taxpayer with business activity within this state or ownership interest or beneficial interest in a flow-through entity that has business activity in this state unless prohibited by 15 USC 381 to 384. The corporate income tax is imposed on the corporate income tax base, after allocation or apportionment to this state, at the rate of 6.0%.

(2) The corporate income tax base means a taxpayer's business income subject to the following adjustments, before allocation or apportionment, and the adjustment in subsection (4) after allocation or apportionment:

(a) Add interest income and dividends derived from obligations or securities of states other than this state, in the same amount that was excluded from federal taxable income, less the related portion of expenses not deducted in computing federal taxable income because of sections 265 and 291 of the internal revenue code.

(b) Add all taxes on or measured by net income including the tax imposed under this part to the extent that the taxes were deducted in arriving at federal taxable income.

(c) Add any carryback or carryover of a net operating loss to the extent deducted in arriving at federal taxable income.

(d) To the extent included in federal taxable income, deduct dividends and royalties received from persons other than United States persons and foreign operating entities, including, but not limited to, amounts determined under section 78 of the internal revenue code or sections 951 to 964 of the internal revenue code.

(e) Except as otherwise provided under this subdivision, to the extent deducted in arriving at federal taxable income, add any royalty, interest, or other expense paid to a person related to the taxpayer by ownership or control for the use of an intangible asset if the person is not included in the taxpayer's unitary

business group. The addition of any royalty, interest, or other expense described under this subdivision is not required to be added if the taxpayer can demonstrate that the transaction has a nontax business purpose, is conducted with arm's-length pricing and rates and terms as applied in accordance with sections 482 and 1274(d) of the internal revenue code, and 1 of the following is true:

(i) The transaction is a pass through of another transaction between a third party and the related person with comparable rates and terms.

(ii) An addition would result in double taxation. For purposes of this subparagraph, double taxation exists if the transaction is subject to tax in another jurisdiction.

(iii) An addition would be unreasonable as determined by the state treasurer.

(iv) The related person recipient of the transaction is organized under the laws of a foreign nation which has in force a comprehensive income tax treaty with the United States.

(f) To the extent included in federal taxable income, deduct interest income derived from United States obligations.

(g) For tax years beginning after December 31, 2011, eliminate all of the following:

(i) Income from producing oil and gas to the extent included in federal taxable income.

(ii) Expenses of producing oil and gas to the extent deducted in arriving at federal taxable income.

(h) For tax years beginning after December 31, 2012, for a qualified taxpayer, eliminate all of the following:

(i) Income derived from a mineral to the extent included in federal taxable income.

(ii) Expenses related to the income deductible under subparagraph (i) to the extent deducted in arriving at federal taxable income.

(3) For purposes of subsection (2), the business income of a unitary business group is the sum of the business income of each person included in the unitary business group less any items of income and related deductions arising from transactions including dividends between persons included in the unitary business group.

(4) Deduct any available business loss incurred after December 31, 2011. As used in this subsection, "business loss" means a negative business income taxable amount after allocation or apportionment. For purposes of this subsection, a taxpayer that acquires the assets of another corporation in a transaction described under section 381(a)(1) or (2) of the internal revenue code may deduct any business loss attributable to that distributor or transferor corporation. The business loss shall be carried forward to the year immediately succeeding the loss year as an offset to the allocated or apportioned corporate income tax base, then successively to the next 9 taxable years following the loss year or until the loss is used up, whichever occurs first.

(5) As used in this section, "oil and gas" means oil and gas that is subject to severance tax under 1929 PA 48, MCL 205.301 to 205.317.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 312, Eff. Jan. 1, 2012;—Am. 2012, Act 414, Imd. Eff. Dec. 20, 2012;—Am. 2014, Act 13, Imd. Eff. Feb. 25, 2014.

**Compiler's note:** Enacting section 1 of Act 13 of 2014 provides:

"Enacting section 1. This amendatory act is retroactive and effective for tax years that begin after December 31, 2011."

## **206.625 Exemptions; corporate income tax base of foreign person; sales factor; "business income," "domiciled," and "foreign person" defined.**

Sec. 625. (1) Except as otherwise provided in this section, the following are exempt from the tax imposed by this part:

(a) The United States, this state, other states, and the agencies, political subdivisions, and enterprises of the United States, this state, and other states.

(b) A person who is exempt from federal income tax under the internal revenue code except the following:

(i) An organization included under section 501(c)(12) or 501(c)(16) of the internal revenue code.

(ii) An organization exempt under section 501(c)(4) of the internal revenue code that would be exempt under section 501(c)(12) of the internal revenue code except that it failed to meet the requirements in section 501(c)(12) that 85% or more of its income consist of amounts collected from members.

(iii) The tax base attributable to unrelated business activities giving rise to the unrelated business taxable income of an exempt person.

(c) A foreign person that is domiciled in a member country of the North American free trade agreement is not subject to taxation under this part if the foreign person is domiciled in a subnational jurisdiction that does not impose an income tax on a similarly situated person domiciled in this state whose presence in the foreign country is the same as the foreign person's presence in the United States. If a qualifying foreign person is domiciled in a subnational jurisdiction that does not impose an income tax on businesses, but instead imposes

some other type of subnational business tax, that foreign person is not subject to taxation under this part if that subnational business tax is not imposed on a similarly situated person domiciled in this state whose presence in the foreign country is the same as the foreign person's presence in the United States.

(d) A person that qualifies as a domestic international sales corporation as defined in section 992 of the internal revenue code for the portion of the year that it has in effect a valid election to be treated as a domestic international sales corporation.

(e) A person that is a self-insurer group operating under an agreement entered pursuant to section 611(2) of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.611.

(2) Notwithstanding any other provision of this part to the contrary, a foreign person subject to tax under this part shall calculate its corporate income tax base under this section. Except as otherwise provided in this section, the corporate income tax base of a foreign person is subject to all adjustments and other provisions of this part. However, the corporate income tax base shall not include net income from sales of tangible personal property where title passes outside the United States.

(3) Except as otherwise provided in this section, the corporate income tax base of a foreign person includes the sum of business income and the adjustments under section 623 that are related to United States business activity.

(4) The sales factor for a foreign person is a fraction, the numerator of which is the taxpayer's total sales in this state during the tax year and the denominator of which is the taxpayer's total sales in the United States during the tax year. For purposes of this subsection, for sales of tangible personal property, only those sales where title passes inside the United States shall be used in the sales factor, and for sales of property other than tangible personal property, those sales shall be apportioned in accordance with chapter 14.

(5) As used in this section:

(a) "Business income" means, for a foreign person, gross income attributable to the taxpayer's United States business activity and gross income derived from sources within the United States minus the deductions allowed under the internal revenue code that are related to that gross income. Gross income includes the proceeds from sales shipped or delivered to any purchaser within the United States and for which title transfers within the United States; proceeds from services performed within the United States; and a pro rata proportion of the proceeds from services performed both within and outside the United States to the extent the recipient receives benefit of the services within the United States.

(b) "Domiciled" means the location of the headquarters of the trade or business from which the trade or business of the foreign person is principally managed and directed.

(c) "Foreign person" means a person formed under the laws of a foreign country or a political subdivision of a foreign country, whether or not the person is subject to taxation under the internal revenue code.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 175, Eff. Jan. 1, 2012;—Am. 2014, Act 15, Imd. Eff. Feb. 25, 2014;—Am. 2017, Act 216, Eff. Mar. 20, 2018.

**Compiler's note:** Enacting section 1 of Act 15 of 2014 provides:

"Enacting section 1. This amendatory act is retroactive and effective for tax years that begin after December 31, 2011."

## CHAPTER 12

### **206.635 Tax on insurance company; imposition and levy; direct premiums; qualified health insurance policies; exemption.**

Sec. 635. (1) Except as otherwise provided under subsection (4) or (6), each insurance company shall pay a tax determined under this chapter.

(2) The tax imposed by this chapter on each insurance company shall be a tax equal to 1.25% of gross direct premiums written on property or risk located or residing in this state. However, beginning on January 1, 2019, for gross direct premiums attributable to qualified health insurance policies the tax imposed shall be a tax equal to 0.95% through December 31, 2019, and for the 2020 tax year and each tax year after 2020, the tax rate for those gross direct premiums attributable to qualified health insurance policies shall be determined as provided under subsection (7). Direct premiums do not include any of the following:

(a) Premiums on policies not taken.

(b) Returned premiums on canceled policies.

(c) Receipts from the sale of annuities.

(d) Receipts on reinsurance premiums if the tax has been paid on the original premiums.

(e) The first \$190,000,000.00 of disability insurance premiums written in this state, other than credit insurance and disability income insurance premiums, of each insurance company subject to tax under this chapter. This exemption shall be reduced by \$2.00 for each \$1.00 by which the insurance company's gross direct premiums from insurance carrier services in this state and outside this state exceed \$280,000,000.00.

(3) The tax calculated under this chapter is in lieu of all other privilege or franchise fees or taxes imposed by this part or any other law of this state, except taxes on real and personal property, taxes collected under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, and taxes collected under the use tax act, 1937 PA 94, MCL 205.91 to 205.111, and except as otherwise provided in the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

(4) The tax imposed and levied under this chapter does not apply to an insurance company authorized under chapter 46 or 47 of the insurance code of 1956, 1956 PA 218, MCL 500.4601 to 500.4673 and 500.4701 to 500.4747.

(5) For a taxpayer subject to the tax imposed under chapter 11, that portion of the tax base attributable to the services provided by an attorney-in-fact to a reciprocal insurer pursuant to chapter 72 of the insurance code of 1956, 1956 PA 218, MCL 500.7200 to 500.7234, is exempt from the tax imposed by that chapter.

(6) The tax imposed and levied under this chapter does not apply to a health maintenance organization authorized under chapter 35 of the insurance code of 1956, 1956 PA 218, MCL 500.3501 to 500.3573.

(7) By October 1, 2020 and each October 1 thereafter, the department shall determine the tax rate to be imposed on gross direct premiums attributable to qualified health insurance policies for that calendar year as follows:

(a) Calculate the total liability for all taxpayers after all credits for qualified health insurance policies under this chapter and section 476a of the insurance code of 1956, 1956 PA 218, MCL 500.476a, for the prior calendar year.

(b) Calculate the total liability for all taxpayers after all credits for qualified health insurance policies under this chapter at a rate of 1.25% and section 476a of the insurance code of 1956, 1956 PA 218, MCL 500.476a, for the prior calendar year.

(c) Determine the actual amount of savings for the prior year as a result of the rate reduction under subsection (2) by subtracting the amount determined under subdivision (a) from the amount determined under subdivision (b).

(d) Determine the amount of savings above the savings limit for the prior calendar year, by subtracting \$18,000,000.00 from the amount determined under subdivision (c).

(e) Determine the current year savings limit by subtracting the sum of the amounts determined under subdivision (d) for each calendar year beginning on and after January 1, 2019 from \$18,000,000.00.

(f) Calculate the rate reduction for the current calendar year by dividing the amount determined under subdivision (e) by the amount of prior year gross direct premiums attributable to qualified health insurance policies written by taxpayers with no liability under section 476a of the insurance code of 1956, 1956 PA 218, MCL 500.476a, for the prior calendar year.

(g) Calculate the tax rate for the current calendar year by subtracting the amount determined under subdivision (f) from 0.0125.

(8) The state treasurer shall develop a method to account for changes in tax liability occurring after the calculation of the immediately succeeding calendar year's rate.

(9) As used in this section, "qualified health insurance policies" means policies written on risk located or residing in this state that are 1 of the following types of policies:

(a) Comprehensive major medical, regardless of whether the policy is eligible for a health savings account or purchased on the health insurance marketplace.

(b) Student.

(c) Children's health insurance program.

(d) Medicaid.

(e) Employer comprehensive, regardless of whether the policy is eligible for a health savings account or purchased on the health insurance marketplace.

(f) Multiple employer associations or trusts and any other employer associations and trusts.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2018, Act 31, Imd. Eff. Feb. 21, 2018;—Am. 2018, Act 222, Imd. Eff. June 26, 2018.

**Compiler's note:** Enacting section 1 of Act 31 of 2018 provides:

"Enacting section 1. This amendatory act is retroactive and effective for tax years that begin on and after January 1, 2016."

**206.637 Tax credit; calculation; assessments of insurance company from immediately preceding tax year; payments to Michigan automobile insurance placement facility attributable to assigned claims plan.**

Sec. 637. (1) Except as otherwise provided under subsection (3), an insurance company may claim a credit against the tax imposed under this chapter in the following amounts:

(a) Amounts paid to the Michigan worker's compensation placement facility pursuant to chapter 23 of the



insurance code of 1956, 1956 PA 218, MCL 500.2301 to 500.2352.

(b) Amounts paid to the Michigan basic property insurance association pursuant to chapter 29 of the insurance code of 1956, 1956 PA 218, MCL 500.2901 to 500.2954.

(c) Amounts paid to the Michigan automobile insurance placement facility pursuant to chapter 33 of the insurance code of 1956, 1956 PA 218, MCL 500.3301 to 500.3390.

(d) Amounts paid to the property and casualty guaranty association pursuant to chapter 79 of the insurance code of 1956, 1956 PA 218, MCL 500.7901 to 500.7949.

(e) Amounts paid to the Michigan life and health insurance guaranty association pursuant to chapter 77 of the insurance code of 1956, 1956 PA 218, MCL 500.7701 to 500.7780.

(2) The assessments of an insurance company from the immediately preceding tax year shall be used in calculating the credits allowed under this section for each tax year.

(3) For the 2016 tax year only, an insurance company shall only include in the calculation of a credit under this section 35% of the amounts paid to the Michigan automobile insurance placement facility that are attributable to the assigned claims plan approved under chapter 31 of the insurance code of 1956, 1956 PA 218, MCL 500.3101 to 500.3179. For tax years beginning on and after January 1, 2017, an insurance company shall not include in the calculation of a credit under this section amounts paid to the Michigan automobile insurance placement facility that are attributable to the assigned claims plan approved under chapter 31 of the insurance code of 1956, 1956 PA 218, MCL 500.3101 to 500.3179.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2016, Act 278, Imd. Eff. July 1, 2016.

#### **206.639 Tax credit in amount equal to 50% of examination fees paid by insurance company.**

Sec. 639. An insurance company shall be allowed a credit against the tax imposed under this chapter in an amount equal to 50% of the examination fees paid by the insurance company during the tax year pursuant to section 224 of the insurance code of 1956, 1956 PA 218, MCL 500.224.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012.

#### **206.641 Amounts paid pursuant to MCL 418.352; tax credit; refund of excess amount.**

Sec. 641. (1) For amounts paid pursuant to section 352 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.352, an insurance company subject to the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, may claim a credit against the tax imposed under this chapter for the tax year in an amount equal to the amount paid during that tax year by the insurance company pursuant to section 352 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.352, as certified by the director of the bureau of worker's disability compensation pursuant to section 391(6) of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.391.

(2) An insurance company claiming a credit under this section may claim a portion of the credit allowed under this section equal to the payments made during a calendar quarter pursuant to section 352 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.352, against the estimated tax payments made under section 681. Any credit in excess of an estimated payment shall be refunded to the insurance company on a quarterly basis within 60 calendar days after receipt of a properly completed estimated tax return. Any subsequent increase or decrease in the amount claimed for payments made by the insurance company shall be reflected in the amount of the credit taken for the calendar quarter in which the amount of the adjustment is finalized.

(3) The credit under this section is in addition to any other credits the insurance company is eligible for under this chapter.

(4) Any amount of the credit under this section that is in excess of the tax liability of the insurance company for the tax year shall be refunded, without interest, by the department to the insurance company within 60 calendar days of receipt of a properly completed annual return required under this part.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012.

#### **206.643 Imposition of tax on insurance company; tax year; annual return; calculation of estimated payment; disclosure.**

Sec. 643. (1) An insurance company is subject to the tax imposed by this chapter or by section 476a of the insurance code of 1956, 1956 PA 218, MCL 500.476a, if applicable, whichever is greater.

(2) The tax year of an insurance company is the calendar year.

(3) Notwithstanding section 685, an insurance company shall file the annual return required under this part before March 2 after the end of the tax year, and an automatic extension under section 685(3) is not available.

(4) For the purpose of calculating an estimated payment required by section 681, the greater of the amount of tax imposed on an insurance company under this chapter or under section 476a of the insurance code of

1956, 1956 PA 218, MCL 500.476a, shall be considered the insurance company's tax liability for the immediately preceding tax year.

(5) The requirements of section 28(1)(f) of 1941 PA 122, MCL 205.28, that prohibit an employee or authorized representative of, a former employee or authorized representative of, or anyone connected with the department from divulging any facts or information obtained in connection with the administration of a tax, do not apply to disclosure of a tax return required by this section.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012.

## CHAPTER 13

### 206.651 Definitions.

Sec. 651. As used in this chapter:

(a) "Billing address" means the location indicated in the books and records of the financial institution on the first day of the tax year or on a later date in the tax year when the customer relationship began as the address where any notice, statement, or bill relating to a customer's account is mailed.

(b) "Borrower is located in this state" or "credit card holder is located in this state" means a borrower, other than a credit card holder, that is engaged in a trade or business which maintains its commercial domicile in this state, or a borrower that is not engaged in a trade or business or a credit card holder whose billing address is in this state.

(c) "Commercial domicile" means the headquarters of the trade or business, that is the place from which the trade or business is principally managed and directed, or if a financial institution is organized under the laws of a foreign country, of the Commonwealth of Puerto Rico, or any territory or possession of the United States, such financial institution's commercial domicile shall be deemed for the purposes of this chapter to be the state of the United States or the District of Columbia from which such financial institution's trade or business in the United States is principally managed and directed. It shall be presumed, subject to rebuttal, that the location from which the financial institution's trade or business is principally managed and directed is the state of the United States or the District of Columbia to which the greatest number of employees are regularly connected or out of which they are working, irrespective of where the services of such employees are performed, as of the last day of the tax year.

(d) "Credit card" means a credit, travel, or entertainment card.

(e) "Credit card issuer's reimbursement fee" means the fee a financial institution receives from a merchant's bank because 1 of the persons to whom the financial institution has issued a credit card has charged merchandise or services to the credit card.

(f) "FFIEC" means the federal financial institutions examination council established pursuant to section 1004 of the financial institutions regulatory and interest rate control act of 1978, Public Law 95-630, 12 USC 3303.

(g) "Financial institution" means any of the following:

(i) A bank holding company, a national bank, a state chartered bank, a state chartered savings bank, a federally chartered savings association, or a federally chartered farm credit system institution.

(ii) Any entity, other than an entity subject to the tax imposed under chapter 12, who is directly or indirectly owned by an entity described in subparagraph (i) and is a member of the unitary business group.

(iii) A unitary business group of entities described in subparagraph (i) or (ii), or both.

(h) "Gross business" means the sum of the following less transactions between those entities included in a unitary business group:

(i) Fees, commissions, or other compensation for financial services.

(ii) Net gains, not less than zero, from the sale of loans and other intangibles.

(iii) Net gains, not less than zero, from trading in stocks, bonds, or other securities.

(iv) Interest charged to customers for carrying debit balances of margin accounts.

(v) Interest and dividends received.

(vi) Any other gross proceeds resulting from the operation as a financial institution.

(i) "Loan" means any extension of credit resulting from direct negotiations between the financial institution and its customer, or the purchase, in whole or in part, of such extension of credit from another. Loans include participations, syndications, and leases treated as loans for federal income tax purposes. Loans shall not include properties treated as loans under section 595 of the internal revenue code, futures or forward contracts, options, notional principal contracts such as swaps, credit card receivables, including purchased credit card relationships, non-interest-bearing balances due from depository institutions, cash items in the process of collection, federal funds sold, securities purchased under agreements to resell, assets held in a trading account, securities, interests in a real estate mortgage investment conduit, or other mortgage-backed or

asset-backed security, and other similar items.

(j) "Loan secured by real property" means that 50% or more of the aggregate value of the collateral used to secure a loan or other obligation, when valued at fair market value as of the time the original loan or obligation was incurred, was real property.

(k) "Merchant discount" means the fee or negotiated discount charged to a merchant by the financial institution for the privilege of participating in a program whereby a credit card is accepted in payment for merchandise or services sold to the credit card holder.

(l) "Michigan obligations" means a bond, note, or other obligation issued by a governmental unit described in section 3 of the shared credit rating act, 1985 PA 227, MCL 141.1053.

(m) "Participation" means an extension of credit in which an undivided ownership interest is held on a pro rata basis in a single loan or pool of loans and related collateral. In a loan participation, the credit originator initially makes the loan and then subsequently resells all or a portion of it to other lenders. The participation may or may not be known to the borrower.

(n) "Principal base of operations", with respect to transportation property, means the place of more or less permanent nature from which said property is regularly directed or controlled. With respect to an employee, the principal base of operations means the place of more or less permanent nature from which the employee regularly does any of the following:

(i) Starts his or her work and to which he or she customarily returns in order to receive instructions from his or her employer.

(ii) Communicates with his or her customers or other persons.

(iii) Performs any other functions necessary to the exercise of his or her trade or profession at some other point or points.

(o) "Real property owned" and "tangible personal property owned" mean real and tangible personal property respectively on which the financial institution may claim depreciation for federal income tax purposes or to which the financial institution holds legal title and on which no other person may claim depreciation for federal income tax purposes or could claim depreciation if subject to federal income tax. Real and tangible personal properties do not include coin, currency, or property acquired in lieu of or pursuant to a foreclosure.

(p) "Regular place of business" means an office at which the financial institution carries on its business in a regular and systematic manner and which is continuously maintained, occupied, and used by employees of the financial institution. The financial institution shall have the burden of proving that an investment asset or activity or trading asset or activity was properly assigned to a regular place of business outside of this state by demonstrating that the day-to-day decisions regarding the asset or activity occurred at a regular place of business outside this state. Where the day-to-day decisions regarding an investment asset or activity or trading asset or activity occur at more than 1 regular place of business and 1 such regular place of business is in this state and 1 such regular place of business is outside this state, such asset or activity shall be considered to be located at the regular place of business of the financial institution where the investment or trading policies or guidelines with respect to the asset or activity are established. Unless the financial institution demonstrates to the contrary, such policies and guidelines shall be presumed to be established at the commercial domicile of the financial institution.

(q) "Rolling stock" means railroad freight or passenger cars, locomotives, or other rail cars.

(r) "Syndication" means an extension of credit in which 2 or more persons finance the credit and each person is at risk only up to a specified percentage of the total extension of the credit or up to a specified dollar amount.

(s) "Top-tiered parent entity" means the highest level entity within the unitary business group that is required to file with a regulatory agency under the standards prescribed by the FFIEC.

(t) "Total equity capital" means that same amount reported by the financial institution or top-tiered parent entity, in the case of a unitary business group of financial institutions, and as reported for the tax year on any of the following forms or successor forms listed in this subdivision and designated by the FFIEC, that are filed with the office of the comptroller of the currency, the Federal Deposit Insurance Corporation, or the Federal Reserve System:

(i) The consolidated financial statement for holding companies, FR Y-9C.

(ii) The parent company only financial statements for small holding companies, FR Y-9SP.

(iii) To the extent that FR Y-9C or FR Y-9SP are not filed for the tax year, the consolidated reports of condition and income, call reports, FFIEC 031, 041, or 051.

(iv) A report similar in content and designated by the FFIEC.

(u) "Transportation property" means vehicles and vessels capable of moving under their own power, such as aircraft, trains, water vessels, and motor vehicles, as well as any equipment or containers attached to such

property, such as rolling stock, barges, or trailers.

(v) "United States obligations" means all obligations of the United States exempt from taxation under 31 USC 3124(a) or exempt under the United States constitution or any federal statute, including the obligations of any instrumentality or agency of the United States that are exempt from state or local taxation under the United States constitution or any statute of the United States.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 171, Eff. Jan. 1, 2012;—Am. 2018, Act 460, Imd. Eff. Dec. 27, 2018.

**Compiler's note:** Enacting section 1 of Act 460 of 2018 provides:

"Enacting section 1. (1) This amendatory act is effective for tax years beginning after December 31, 2018.

"(2) The provisions of section 655 of the income tax act of 1967, 1967 PA 281, MCL 206.655, as amended by this amendatory act, are curative and intended to clarify existing law and accurately reflect the interpretation and application of those provisions in accordance with the notice to taxpayers dated November 21, 2016, regarding 5-year averaging calculation of net equity capital for financial institutions."

### **206.653 Franchise tax.**

Sec. 653. (1) Every financial institution with substantial nexus in this state is subject to a franchise tax. The franchise tax is imposed upon the tax base of the financial institution as determined under section 655 after allocation or apportionment to this state, at the rate of 0.29%.

(2) For purposes of this section, a financial institution has substantial nexus in this state if the financial institution satisfies any of the following:

(a) Has a physical presence in this state for a period of more than 1 day during the tax year.

(b) Actively solicits sales in this state and has gross receipts of \$350,000.00 or more sourced to this state. As used in this subdivision, "actively solicits" means that term as defined under section 621.

(c) Has an ownership interest or a beneficial interest in a flow-through entity, directly or indirectly through 1 or more other flow-through entities, that has substantial nexus in this state as provided under this section or section 621.

(3) The tax under this chapter is in lieu of the tax levied and imposed under chapter 11 of this part.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 183, Eff. Jan. 1, 2012.

### **206.655 Financial institution; tax base; total equity capital.**

Sec. 655. (1) For a financial institution, the tax base is the total equity capital of the financial institution or the top-tiered parent entity in the case of a unitary business group of financial institutions, subject to the following deductions before allocation or apportionment:

(a) The average daily book value of United States obligations owned during the tax year by members of the unitary business group.

(b) The average daily book value of Michigan obligations owned during the tax year by members of the unitary business group.

(c) Subject to the limitation provided in this subdivision, the equity capital of a person that is subject to the tax imposed under chapter 12, not to exceed 125% of the minimum regulatory capitalization requirements of the member. For purposes of this subdivision, "equity capital" means equity capital as calculated in accordance with generally accepted accounting principles.

(2) For tax years beginning on or before December 31, 2020, the tax base shall be determined by adding the financial institution's equity capital as of the close of the current tax year and preceding 4 tax years and dividing the resulting sum by 5. If a financial institution has not been in existence for a period of 5 tax years, equity capital shall be determined by adding together the financial institution's equity capital for the number of tax years the financial institution has been in existence and dividing the resulting sum by the number of years the financial institution has been in existence. For tax years beginning after December 31, 2020, the tax base shall be determined as of the close of the tax year. For purposes of this section, a partial year shall be treated as a full year.

(3) For purposes of this section, each of the following applies:

(a) A change in identity, form, or place of organization of 1 financial institution shall be treated as if a single financial institution had been in existence for the entire tax year in which the change occurred and each tax year after the change.

(b) The combination of 2 or more financial institutions into 1 shall be treated as if the constituent financial institutions had been a single financial institution in existence for the entire tax year in which the combination occurred and each tax year after the combination, and the book values and adjustments for United States obligations and Michigan obligations of the constituent institutions shall be combined. A combination shall include any acquisition required to be accounted for by the surviving financial institution in accordance with generally accepted accounting principles or a statutory merger or consolidation.

(c) If a United States person included in a unitary business group of financial institutions or a financial

institution combined return is subject to tax under chapter 11 or 12, any business income or equity capital attributable to that person shall be eliminated from the total equity capital of the unitary business group and any sales or gross business attributable to that person shall be eliminated from the apportionment formula under this chapter.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2018, Act 460, Imd. Eff. Dec. 27, 2018.

**Compiler's note:** Enacting section 1 of Act 460 of 2018 provides:

"Enacting section 1. (1) This amendatory act is effective for tax years beginning after December 31, 2018.

"(2) The provisions of section 655 of the income tax act of 1967, 1967 PA 281, MCL 206.655, as amended by this amendatory act, are curative and intended to clarify existing law and accurately reflect the interpretation and application of those provisions in accordance with the notice to taxpayers dated November 21, 2016, regarding 5-year averaging calculation of net equity capital for financial institutions."

### **206.657 Financial institution; business activities subject to tax within and outside of state; gross business factor.**

Sec. 657. (1) Except as otherwise provided under this chapter, the tax base of a financial institution whose business activities are confined solely to this state shall be allocated to this state. The tax base of a financial institution whose business activities are subject to tax both within and outside of this state shall be apportioned to this state by multiplying the tax base by the gross business factor.

(2) A financial institution whose business activities are subject to tax both within and outside of this state is subject to tax in another state in either of the following circumstances:

(a) The financial institution is subject to a business privilege tax, a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax or a tax of the type imposed under this part in that state.

(b) That state has jurisdiction to subject the financial institution to 1 or more of the taxes listed in subdivision (a) regardless of whether that state does or does not subject the financial institution to that tax.

(3) Except as otherwise provided in subsection (4), the gross business factor is a fraction, the numerator of which is the total gross business of the financial institution in this state during the tax year and the denominator of which is the total gross business of the financial institution everywhere during the tax year.

(4) Except as otherwise provided under this subsection, for a financial institution that is included in a unitary business group, gross business includes gross business in this state of every financial institution included in the unitary business group without regard to whether the financial institution has nexus in this state. Gross business between financial institutions included in a unitary business group must be eliminated in calculating the gross business factor.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012.

### **206.659 Financial institution; gross business in state; determination.**

Sec. 659. Gross business in this state of the financial institution is determined as follows:

(a) Receipts from credit card receivables including without limitation interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to credit card holders such as annual fees are in this state if the billing address of the credit card holder is located in this state.

(b) Credit card issuer's reimbursement fees are in this state if the billing address of the credit card holder is located in this state.

(c) Receipts from merchant discounts are in this state if the commercial domicile of the merchant is in this state.

(d) Loan servicing fees are in this state under any of the following circumstances:

(i) For a loan secured by real property, if the real property for which the loan is secured is in this state.

(ii) For a loan secured by real property, if the real property for which the loan is secured is located both within and without this state and 1 or more other states and more than 50% of the fair market value of the real property is located in this state.

(iii) For a loan secured by real property, if more than 50% of the fair market value of the real property for which the loan is secured is not located within any 1 state but the borrower is located in this state.

(iv) For a loan not secured by real property, the borrower is located in this state.

(e) Receipts from services are in this state if the recipient of the services receives all of the benefit of the services in this state. If the recipient of the services receives some of the benefit of the services in this state, the receipts are included in the numerator of the apportionment factor in proportion to the extent that the recipient receives benefit of the services in this state.

(f) Receipts from investment assets and activities and trading assets and activities, including interest and dividends, are in this state if the financial institution's customer is in this state. If the location of the financial institution's customer cannot be determined, both of the following apply:

(i) Interest, dividends, and other income from investment assets and activities and from trading assets and activities, including, but not limited to, investment securities; trading account assets; federal funds; securities purchased and sold under agreements to resell or repurchase; options; futures contracts; forward contracts; notional principal contracts such as swaps; equities; and foreign currency transactions are in this state if the average value of the assets is assigned to a regular place of business of the taxpayer within this state. Interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements are in this state if the average value of the assets is assigned to a regular place of business of the taxpayer within this state. The amount of receipts and other income from investment assets and activities is in this state if assets are assigned to a regular place of business of the taxpayer within this state.

(ii) The amount of receipts from trading assets and activities, including, but not limited to, assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, but excluding amounts otherwise sourced in this section, is in this state if the assets are assigned to a regular place of business of the taxpayer within this state.

(g) Interest charged to customers for carrying debit balances on margin accounts without deduction of any costs incurred in carrying the accounts is in this state if the customer is located in this state.

(h) Interest from loans secured by real property is in this state if the property is located in this state, if the property is located both within this state and 1 or more other states and more than 50% of the fair market value of the real property is located in this state, or if more than 50% of the fair market value of the real property is not located within any 1 state but the borrower is located in this state.

(i) Interest from loans not secured by real property is in this state if the borrower is located in this state.

(j) Net gains from the sale of loans secured by real property or mortgage service rights relating to real property are in this state if the property is in this state, if the property is located both within this state and 1 or more other states and more than 50% of the fair market value of the real property is located within this state, or if more than 50% of the fair market value of the real property is not located in any 1 state but the borrower is located in this state.

(k) Net gains from the sale of loans not secured by real property or any other intangible assets are in this state if the depositor or borrower is located in this state.

(l) Receipts from the lease of real property are in this state if the property is located in this state.

(m) Receipts from the lease of tangible personal property are in this state if the property is located in this state when it is first placed in service by the lessee.

(n) Receipts from the lease of transportation tangible personal property are in this state if the property is used in this state or if the extent of use of the property within this state cannot be determined but the property has its principal base of operations within this state.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012.

## CHAPTER 14

### **206.661 Tax base; apportionment; taxpayer subject to tax within state, within and outside state, or in another state.**

Sec. 661. (1) Except as otherwise provided in this part, the tax base established under this part shall be apportioned in accordance with this chapter.

(2) The tax base of a taxpayer whose business activities are confined solely to this state shall be allocated to this state. The tax base of a taxpayer whose business activities are subject to tax both within and outside of this state shall be apportioned to this state by multiplying the tax base by the sales factor calculated under section 663. For a taxpayer that has a direct, or indirect through 1 or more other flow-through entities, ownership interest or beneficial interest in a flow-through entity, the taxpayer's business income that is directly attributable to the business activity of the flow-through entity shall be apportioned to this state using an apportionment factor determined under section 663 based on the business activity of the flow-through entity unless the flow-through entity is unitary with the taxpayer for apportionment purposes as provided under section 663.

(3) A taxpayer is subject to tax in another state in either of the following circumstances:

(a) The taxpayer is subject to a business privilege tax, a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax.

(b) That state has jurisdiction to subject the taxpayer to 1 or more of the taxes listed in subdivision (a) regardless of whether that state does or does not subject the taxpayer to that tax.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 191, Eff. Jan. 1, 2012;—Am. 2011, Act 310, Eff. Jan. 1, 2012.

### **206.663 Sales factor.**

Sec. 663. (1) Except as otherwise provided in subsection (2) and section 669, the sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax year and the denominator of which is the total sales of the taxpayer everywhere during the tax year. The numerator of a taxpayer shall include its proportionate share of the total sales in this state of a flow-through entity that is unitary with the taxpayer. The denominator of a taxpayer shall include its proportionate share of the total sales everywhere of a flow-through entity that is unitary with the taxpayer. A flow-through entity is unitary with a taxpayer when that taxpayer owns or controls, directly or indirectly, more than 50% of the ownership interests with voting rights or ownership interests that confer comparable rights to voting rights of the flow-through entity, and that has business activities or operations which result in a flow of value between the taxpayer and the flow-through entity, or between the flow-through entity and another flow-through entity unitary with the taxpayer, or has business activities or operations that are integrated with, are dependent upon, or contribute to each other.

(2) Except as otherwise provided under this subsection, for a taxpayer that is a unitary business group, sales include sales in this state of every person included in the unitary business group without regard to whether the person has nexus in this state. Sales between persons included in a unitary business group must be eliminated in calculating the sales factor. Sales between a taxpayer and a flow-through entity unitary with that taxpayer shall, to the extent of the taxpayer's interest in the flow-through entity, be eliminated in calculating the sales factor. Sales between a flow-through entity unitary with a taxpayer and another flow-through entity unitary with that same taxpayer shall, to the extent of the taxpayer's interest in the selling flow-through entity, be eliminated in calculating the sales factor.

(3) It is the intent of the legislature that the tax base of a taxpayer is apportioned to this state by multiplying the tax base by the sales factor multiplied by 100% and that apportionment shall not be based on property, payroll, or any other factor notwithstanding section 1 of 1969 PA 343, MCL 205.581.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 308, Eff. Jan. 1, 2012;—Am. 2014, Act 15, Imd. Eff. Feb. 25, 2014.

**Compiler's note:** Enacting section 1 of Act 15 of 2014 provides:

"Enacting section 1. This amendatory act is retroactive and effective for tax years that begin after December 31, 2011."

### **206.665 Sales; determination; receipts; definitions; borrower located in this state.**

Sec. 665. (1) Sales of the taxpayer in this state are determined as follows:

(a) Sales of tangible personal property are in this state if the property is shipped or delivered, or, in the case of electricity and gas, the contract requires the property to be shipped or delivered, to any purchaser within this state based on the ultimate destination at the point that the property comes to rest regardless of the free on board point or other conditions of the sales. Property stored in transit for 60 days or more prior to receipt by the purchaser or the purchaser's designee, or in the case of a dock sale not picked up for 60 days or more, shall be deemed to have come to rest at this ultimate destination. Property stored in transit for fewer than 60 days prior to receipt by the purchaser or the purchaser's designee, or in the case of a dock sale picked up before 60 days, is not deemed to have come to rest at this ultimate destination. For purposes of this subdivision:

(i) "Dock sale" means a sale in which the purchaser uses its own or rented vehicles, or makes arrangements with a carrier, to pick up the property at the seller's location.

(ii) "Stored in transit" means storing, staging, forwarding, or consolidating activities undertaken for further shipment or transfer of the property to the purchaser or purchaser's designee.

(b) Receipts from the sale, lease, rental, or licensing of real property are in this state if that property is located in this state.

(c) Receipts from the lease or rental of tangible personal property are sales in this state to the extent that the property is utilized in this state. The extent of utilization of tangible personal property in this state is determined by multiplying the receipts by a fraction, the numerator of which is the number of days of physical location of the property in this state during the lease or rental period in the tax year and the denominator of which is the number of days of physical location of the property everywhere during all lease or rental periods in the tax year. If the physical location of the property during the lease or rental period is unknown or cannot be determined, the tangible personal property is utilized in the state in which the property was located at the time the lease or rental payer obtained possession.

(d) Receipts from the lease or rental of mobile transportation property owned by the taxpayer are in this state to the extent that the property is used in this state. The extent to which an aircraft will be deemed to be used in this state and the amount of receipts that is to be included in the numerator of this state's sales factor are determined by multiplying all the receipts from the lease or rental of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this state and the denominator of which is the total number of landings of the aircraft. If the extent of the use of any transportation property within this state

cannot be determined, then the receipts are in this state if the property has its principal base of operations in this state.

(e) Royalties and other income received for the use of or for the privilege of using intangible property, including patents, know-how, formulas, designs, processes, patterns, copyrights, trade names, service names, franchises, licenses, contracts, customer lists, custom computer software, or similar items, are attributed to the state in which the property is used by the purchaser. If the property is used in more than 1 state, the royalties or other income shall be apportioned to this state pro rata according to the portion of use in this state. If the portion of use in this state cannot be determined, the royalties or other income shall be excluded from both the numerator and the denominator. Intangible property is used in this state if the purchaser uses the intangible property or the rights to the intangible property in the regular course of its business operations in this state, regardless of the location of the purchaser's customers.

(2) Sales from the performance of services are in this state and attributable to this state as follows:

(a) Except as otherwise provided in this section, all receipts from the performance of services are included in the numerator of the apportionment factor if the recipient of the services receives all of the benefit of the services in this state. If the recipient of the services receives some of the benefit of the services in this state, the receipts are included in the numerator of the apportionment factor in proportion to the extent that the recipient receives benefit of the services in this state.

(b) Sales derived from securities brokerage services attributable to this state are determined by multiplying the total dollar amount of receipts from securities brokerage services by a fraction, the numerator of which is the sales of securities brokerage services to customers within this state, and the denominator of which is the sales of securities brokerage services to all customers. Receipts from securities brokerage services include commissions on transactions, the spread earned on principal transactions in which the broker buys or sells from its account, total margin interest paid on behalf of brokerage accounts owned by the broker's customers, and fees and receipts of all kinds from the underwriting of securities. If receipts from brokerage services can be associated with a particular customer, but it is impractical to associate the receipts with the address of the customer, then the address of the customer shall be presumed to be the address of the branch office that generates the transactions for the customer.

(c) Sales of services that are derived directly or indirectly from the sale of management, distribution, administration, or securities brokerage services to, or on behalf of, a regulated investment company or its beneficial owners, including receipts derived directly or indirectly from trustees, sponsors, or participants of employee benefit plans that have accounts in a regulated investment company, shall be attributable to this state to the extent that the shareholders of the regulated investment company are domiciled within this state. For purposes of this subdivision, "domicile" means the shareholder's mailing address on the records of the regulated investment company. If the regulated investment company or the person providing management services to the regulated investment company has actual knowledge that the shareholder's primary residence or principal place of business is different than the shareholder's mailing address, then the shareholder's primary residence or principal place of business is the shareholder's domicile. A separate computation shall be made with respect to the receipts derived from each regulated investment company. The total amount of sales attributable to this state shall be equal to the total receipts received by each regulated investment company multiplied by a fraction determined as follows:

(i) The numerator of the fraction is the average of the sum of the beginning-of-year and end-of-year number of shares owned by the regulated investment company shareholders who have their domicile in this state.

(ii) The denominator of the fraction is the average of the sum of the beginning-of-year and end-of-year number of shares owned by all shareholders.

(iii) For purposes of the fraction, the year shall be the tax year of the regulated investment company that ends with or within the tax year of the taxpayer.

(3) Receipts from the origination of a loan or gains from the sale of a loan secured by residential real property are deemed a sale in this state only if 1 or more of the following apply:

(a) The real property is located in this state.

(b) The real property is located both within this state and 1 or more other states and more than 50% of the fair market value of the real property is located within this state.

(c) More than 50% of the real property is not located in any 1 state and the borrower is located in this state.

(4) Interest from loans secured by real property is in this state if the property is located within this state, if the property is located both within this state and 1 or more other states and if more than 50% of the fair market value of the real property is located within this state, or if more than 50% of the fair market value of the real property is not located within any 1 state but the borrower is located in this state. The determination of whether the real property securing a loan is located within this state shall be made as of the time the



original agreement was made and any and all subsequent substitutions of collateral shall be disregarded.

(5) Interest from a loan not secured by real property is in this state if the borrower is located in this state.

(6) Gains from the sale of a loan not secured by real property, including income recorded under the coupon stripping rules of section 1286 of the internal revenue code, are in this state if the borrower is in this state.

(7) Receipts from credit card receivables, including interest, fees, and penalties from credit card receivables and receipts from fees charged to cardholders, such as annual fees, are in this state if the billing address of the cardholder is in this state.

(8) Receipts from the sale of credit card or other receivables are in this state if the billing address of the customer is in this state. Credit card issuer's reimbursements fees are in this state if the billing address of the cardholder is in this state. Receipts from merchant discounts, computed net of any cardholder chargebacks, but not reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its cardholders, are in this state if the commercial domicile of the merchant is in this state.

(9) Loan servicing fees derived from loans of another secured by real property are in this state if the real property is located in this state, if the real property is located both within and outside of this state and 1 or more states if more than 50% of the fair market value of the real property is located in this state, or if more than 50% of the fair market value of the real property is not located in any 1 state but the borrower is located in this state. Loan servicing fees derived from loans of another not secured by real property are in this state if the borrower is located in this state. If the location of the security cannot be determined, then loan servicing fees for servicing either the secured or the unsecured loans of another are in this state if the lender to whom the loan servicing service is provided is located in this state.

(10) Receipts from the sale of securities and other assets from investment and trading activities, including, but not limited to, interest, dividends, and gains are in this state in either of the following circumstances:

(a) The person's customer is in this state.

(b) If the location of the person's customer cannot be determined, both of the following apply:

(i) Interest, dividends, and other income from investment assets and activities and from trading assets and activities, including, but not limited to, investment securities; trading account assets; federal funds; securities purchased and sold under agreements to resell or repurchase; options; futures contracts; forward contracts; notional principal contracts such as swaps; equities; and foreign currency transactions are in this state if the average value of the assets is assigned to a regular place of business of the taxpayer within this state. Interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements is in this state if the average value of the assets is assigned to a regular place of business of the taxpayer within this state. The amount of receipts and other income from investment assets and activities is in this state if assets are assigned to a regular place of business of the taxpayer within this state.

(ii) The amount of receipts from trading assets and activities, including, but not limited to, assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, but excluding amounts otherwise sourced in this section, is in this state if the assets are assigned to a regular place of business of the taxpayer within this state.

(11) Receipts from transportation services rendered by a person subject to tax in another state are in this state and shall be attributable to this state as follows:

(a) Except as otherwise provided in subdivisions (b) through (e), receipts shall be proportioned based on the ratio of revenue miles of the person in this state to the revenue miles of the person everywhere.

(b) Receipts from maritime transportation services shall be attributable to this state as follows:

(i) 50% of those receipts that either originate or terminate in this state.

(ii) 100% of those receipts that both originate and terminate in this state.

(c) Receipts attributable to this state of a person whose business activity consists of the transportation both of property and of individuals shall be proportioned based on the total receipts for passenger miles and ton mile fractions, separately computed and individually weighted by the ratio of receipts from passenger transportation to total receipts from all transportation, and by the ratio of receipts from freight transportation to total receipts from all transportation, respectively.

(d) Receipts attributable to this state of a person whose business activity consists of the transportation of oil by pipeline shall be proportioned based on the ratio of the receipts for the barrel miles transported in this state to the receipts for the barrel miles transported by the person everywhere.

(e) Receipts attributable to this state of a person whose business activities consist of the transportation of gas by pipeline shall be proportioned based on the ratio of the receipts for the 1,000 cubic feet miles transported in this state to the receipts for the 1,000 cubic feet miles transported by the person everywhere.

(12) For purposes of subsection (11), if a taxpayer can show that revenue mile information is not available or cannot be obtained without unreasonable expense to the taxpayer, receipts attributable to this state shall be

that portion of the revenue derived from transportation services performed everywhere that the miles of transportation services performed in this state bear to the miles of transportation services performed everywhere. If the department determines that the information required for the calculations under subsection (11) are not available or cannot be obtained without unreasonable expense to the taxpayer, the department may use other available information that in the opinion of the department will result in an equitable allocation of the taxpayer's receipts to this state.

(13) Except as provided in subsections (14) through (19), receipts from the sale of telecommunications service or mobile telecommunications service are in this state if the customer's place of primary use of the service is in this state. As used in this subsection, "place of primary use" means the customer's residential street address or primary business street address where the customer's use of the telecommunications service primarily occurs. For mobile telecommunications service, the customer's residential street address or primary business street address is the place of primary use only if it is within the licensed service area of the customer's home service provider.

(14) Receipts from the sale of telecommunications service sold on an individual call-by-call basis are in this state if either of the following applies:

- (a) The call both originates and terminates in this state.
- (b) The call either originates or terminates in this state and the service address is located in this state.

(15) Receipts from the sale of postpaid telecommunications service are in this state if the origination point of the telecommunication signal, as first identified by the service provider's telecommunication system or as identified by information received by the seller from its service provider if the system used to transport telecommunication signals is not the seller's, is located in this state.

(16) Receipts from the sale of prepaid telecommunications service or prepaid mobile telecommunications service are in this state if the purchaser obtains the prepaid card or similar means of conveyance at a location in this state. Receipts from recharging a prepaid telecommunications service or mobile telecommunications service are in this state if the purchaser's billing information indicates a location in this state.

(17) Receipts from the sale of private communication services are in this state as follows:

- (a) 100% of the receipts from the sale of each channel termination point within this state.
- (b) 100% of the receipts from the sale of the total channel mileage between each termination point within this state.
- (c) 50% of the receipts from the sale of service segments for a channel between 2 customer channel termination points, 1 of which is located in this state and the other is located outside of this state, which segments are separately charged.

(d) The receipts from the sale of service for segments with a channel termination point located in this state and in 2 or more other states or equivalent jurisdictions, and which segments are not separately billed, are in this state based on a percentage determined by dividing the number of customer channel termination points in this state by the total number of customer channel termination points.

(18) Receipts from the sale of billing services and ancillary services for telecommunications service are in this state based on the location of the purchaser's customers. If the location of the purchaser's customers is not known or cannot be determined, the sale of billing services and ancillary services for telecommunications service is in this state based on the location of the purchaser.

(19) Receipts to access a carrier's network or from the sale of telecommunications services for resale are in this state as follows:

- (a) 100% of the receipts from access fees attributable to intrastate telecommunications service that both originates and terminates in this state.
- (b) 50% of the receipts from access fees attributable to interstate telecommunications service if the interstate call either originates or terminates in this state.
- (c) 100% of the receipts from interstate end user access line charges, if the customer's service address is in this state. As used in this subdivision, "interstate end user access line charges" includes, but is not limited to, the surcharge approved by the federal communications commission and levied pursuant to 47 CFR 69.

(d) Gross receipts from sales of telecommunications services to other telecommunication service providers for resale shall be sourced to this state using the apportionment concepts used for non-resale receipts of telecommunications services if the information is readily available to make that determination. If the information is not readily available, then the taxpayer may use any other reasonable and consistent method.

(20) Except as otherwise provided under this subsection, for a taxpayer whose business activities include live radio or television programming as described in subsector code 7922 of industry group 792 under the standard industrial classification code as compiled by the United States department of labor or are included in industry groups 483, 484, 781, or 782 under the standard industrial classification code as compiled by the United States department of labor, or any combination of the business activities included in those groups,

media receipts are in this state and attributable to this state only if the commercial domicile of the customer is in this state and the customer has a direct connection or relationship with the taxpayer pursuant to a contract under which the media receipts are derived. For media receipts from the sale of advertising, if the customer of that advertising is commercially domiciled in this state and receives some of the benefit of the sale of that advertising in this state, the media receipts from the advertising to that customer are included in the numerator of the apportionment factor in proportion to the extent that the customer receives the benefit of the advertising in this state. For purposes of this subsection, if the taxpayer is a broadcaster and if the customer receives some of the benefit of the advertising in this state, the media receipts for that sale of advertising from that customer shall be proportioned based on the ratio that the broadcaster's viewing or listening audience in this state bears to its total viewing or listening audience everywhere. As used in this subsection:

(a) "Media property" means motion pictures, television programs, internet programs and websites, other audiovisual works, and any other similar property embodying words, ideas, concepts, images, or sound without regard to the means or methods of distribution or the medium in which the property is embodied.

(b) "Media receipts" means receipts from the sale, license, broadcast, transmission, distribution, exhibition, or other use of media property and receipts from the sale of media services. Media receipts do not include receipts from the sale of media property that is a consumer product that is ultimately sold at retail.

(c) "Media services" means services in which the use of the media property is integral to the performance of those services.

(21) Terms used in subsections (13) through (20) have the same meaning as those terms defined in the streamlined sales and use tax agreement administered under the streamlined sales and use tax administration act, 2004 PA 174, MCL 205.801 to 205.833.

(22) For purposes of this section, a borrower is considered located in this state if the borrower's billing address is in this state.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2014, Act 13, Imd. Eff. Feb. 25, 2014.

**Compiler's note:** Enacting section 1 of Act 13 of 2014 provides:

"Enacting section 1. This amendatory act is retroactive and effective for tax years that begin after December 31, 2011."

#### **206.667 Alternative to apportionment provisions of part; rebuttable presumption; filing of return.**

Sec. 667. (1) If the apportionment provisions of this part do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the state treasurer may require the following, with respect to all or a portion of the taxpayer's business activity, if reasonable:

(a) Separate accounting.

(b) The inclusion of 1 or more additional or alternative factors that will fairly represent the taxpayer's business activity in this state.

(c) The use of any other method to effectuate an equitable allocation and apportionment of the taxpayer's tax base.

(2) An alternate method may be used only if it is approved by the department.

(3) The apportionment provisions of this part shall be rebuttably presumed to fairly represent the business activity attributed to the taxpayer in this state, taken as a whole and without a separate examination of the specific elements of the tax base unless it can be demonstrated that the business activity attributed to the taxpayer in this state is out of all appropriate proportion to the actual business activity transacted in this state and leads to a grossly distorted result or would operate unconstitutionally to tax the extraterritorial activity of the taxpayer.

(4) The filing of a return or an amended return is not considered a petition for the purposes of subsection (1).

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 189, Eff. Jan. 1, 2012.

#### **206.669 Receipts; sourcing.**

Sec. 669. All other receipts not otherwise sourced under this part shall be sourced based on where the benefit to the customer is received or, if where the benefit to the customer is received cannot be determined, to the customer's billing address.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012.

### CHAPTER 15

#### **206.671 Tax credit; requirements; determination of disqualification; reduction percentage; compensation paid by professional employer organization to officers of client and**

**employees of professional employer; unitary business group; definitions.**

Sec. 671. (1) The credit provided in this section shall be taken before any other credit under this part and is available to any taxpayer, other than those taxpayers subject to the tax imposed under chapter 12 or 13, with gross receipts that do not exceed \$20,000,000.00 and with adjusted business income minus the loss adjustment that does not exceed \$1,300,000.00 as adjusted annually for inflation using the Detroit consumer price index, and subject to the following:

(a) A corporation or unitary business group is disqualified if either of the following occurs for the respective tax year:

(i) Compensation and directors' fees of a shareholder or officer exceed \$180,000.00.

(ii) The sum of the following amounts exceeds \$180,000.00:

(A) Compensation and directors' fees of a shareholder.

(B) The product of the percentage of outstanding ownership or of outstanding stock owned by that shareholder multiplied by the difference between the following:

(I) The sum of business income and, to the extent deducted in determining federal taxable income, a carryback or a carryover of a net operating loss or capital loss.

(II) The loss adjustment.

(b) Subject to the reduction percentage determined under subsection (3), the credit determined under this subsection shall be reduced by the following percentages in the following circumstances:

(i) If compensation and directors' fees of a shareholder or officer are, or if the sum of the amounts in subdivision (a)(ii)(A) and (B) is, more than \$160,000.00 but less than \$165,000.00, the credit is reduced by 20%.

(ii) If compensation and directors' fees of a shareholder or officer are, or if the sum of the amounts in subdivision (a)(ii)(A) and (B) is, \$165,000.00 or more but less than \$170,000.00, the credit is reduced by 40%.

(iii) If compensation and directors' fees of a shareholder or officer are, or if the sum of the amounts in subdivision (a)(ii)(A) and (B) is, \$170,000.00 or more but less than \$175,000.00, the credit is reduced by 60%.

(iv) If compensation and directors' fees of a shareholder or officer are, or if the sum of the amounts in subdivision (a)(ii)(A) and (B) is, \$175,000.00 or more but not in excess of \$180,000.00, the credit is reduced by 80%.

(2) For the purposes of determining disqualification under subsection (1), both of the following apply:

(a) An active shareholder's share of business income shall not be attributed to another active shareholder.

(b) If the taxpayer is a unitary business group, the amount of all items paid or allocable by all persons included in the unitary business group to any 1 individual who is a shareholder or officer of a single person included in the unitary business group shall be combined.

(3) The reduction percentage is the greater of the following:

(a) The reduction percentage based on the compensation and directors' fees of the shareholder or officer with the greatest amount of compensation and directors' fees.

(b) The reduction percentage based on the sum of the amounts in subsection (1)(a)(ii)(A) and (B) for the shareholder or officer with the greatest sum of the amounts in subsection (1)(a)(ii)(A) and (B).

(4) A taxpayer that qualifies under subsection (1) is allowed a credit against the tax imposed under this part. The credit under this subsection is the amount by which the tax imposed under this part exceeds 1.8% of adjusted business income.

(5) If gross receipts exceed \$19,000,000.00, the credit shall be reduced by a fraction, the numerator of which is the amount of gross receipts over \$19,000,000.00 and the denominator of which is \$1,000,000.00. The credit shall not exceed 100% of the tax liability imposed under this part.

(6) For a taxpayer that reports for a tax year less than 12 months, the amounts specified in this section for gross receipts, adjusted business income, and share of business income shall be multiplied by a fraction, the numerator of which is the number of months in the tax year and the denominator of which is 12.

(7) Compensation paid by a professional employer organization to the officers of the client and to employees of the professional employer organization who are assigned or leased to and perform services for the client shall be included in determining eligibility of the client under this section.

(8) A disqualifier or reduction under subsection (1) applies to a taxpayer that is a unitary business group if a disqualifier or reduction applies to any member of a unitary business group.

(9) As used in this section:

(a) "Active shareholder" means a shareholder who receives at least \$10,000.00 in compensation, directors' fees, or dividends from the business, and who owns at least 5% of the outstanding stock or other ownership

interest.

(b) "Adjusted business income" means business income as defined in section 603 with all of the following adjustments:

(i) Add compensation and directors' fees of active shareholders of a corporation.

(ii) Add, to the extent deducted in determining federal taxable income, a carryback or carryover of a net operating loss.

(iii) Add, to the extent deducted in determining federal taxable income, a carryback or carryover capital loss.

(iv) Add compensation and directors' fees of officers of a corporation.

(c) "Client" means an entity whose employment operations are managed by a professional employer organization.

(d) "Compensation" means all wages, salaries, fees, bonuses, commissions, and other payments made in the tax year on behalf of or for the benefit of employees, officers, or directors of the taxpayers. Compensation includes, but is not limited to, payments that are subject to or specifically exempt or excepted from withholding under sections 3401 to 3406 of the internal revenue code. Compensation also includes, on a cash or accrual basis consistent with the taxpayer's method of accounting for federal income tax purposes, payments to a pension, retirement, or profit sharing plan other than those payments attributable to unfunded accrued actuarial liabilities, and payments for insurance for which employees are the beneficiaries, including payments under health and welfare and noninsured benefit plans and payment of fees for the administration of health and welfare and noninsured benefit plans. Compensation does not include any of the following:

(i) Discounts on the price of the taxpayer's merchandise or services sold to the taxpayer's employees, officers, or directors that are not available to other customers.

(ii) Except as otherwise provided in this subdivision, payments to an independent contractor.

(iii) Payments to state and federal unemployment compensation funds.

(iv) The employer's portion of payments under the federal insurance contributions act, chapter 21 of subtitle C of the internal revenue code, 26 USC 3101 to 3128, the railroad retirement tax act, chapter 22 of subtitle C of the internal revenue code, 26 USC 3201 to 3233, and similar social insurance programs.

(v) Payments, including self-insurance payments, for worker's compensation insurance or federal employers' liability act insurance pursuant to 45 USC 51 to 60.

(e) "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the United States department of labor, bureau of labor statistics.

(f) "Loss adjustment" means the amount by which adjusted business income was less than zero in any of the 5 tax years immediately preceding the tax year for which eligibility for the credit under this section is being determined. In determining the loss adjustment for a tax year, a corporation is not required to use more of the taxpayer's total negative adjusted business income than the amount needed to qualify the corporation for the credit under this section. A corporation shall not be considered to have used any portion of the taxpayer's negative adjusted business income amount unless the portion used is necessary to qualify for the credit under this section. A corporation shall not reuse a negative adjusted business income amount used as a loss adjustment in a previous tax year or use a negative adjusted business income amount from a year in which the corporation did not receive the credit under this section.

(g) "Officer" means an officer of a corporation including all of the following:

(i) The chairperson of the board.

(ii) The president, vice president, secretary, or treasurer of the corporation or board.

(iii) Persons performing similar duties and responsibilities to persons described in subparagraphs (i) and (ii), that include, at a minimum, major decision making.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 185, Eff. Jan. 1, 2012;—Am. 2011, Act 313, Eff. Jan. 1, 2012;—Am. 2014, Act 13, Imd. Eff. Feb. 25, 2014.

**Compiler's note:** Enacting section 1 of Act 13 of 2014 provides:

"Enacting section 1. This amendatory act is retroactive and effective for tax years that begin after December 31, 2011."

### **206.673 Tax credit under former 1975 PA 228, or 2007 PA 36, MCL 208.1101 to 208.1601, or MCL 208.1403; effect of failure to comply with terms of agreement or movement, sale, transfer, or disposal of property.**

Sec. 673. (1) A taxpayer that has claimed a credit under former 1975 PA 228 or under the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, that included a provision that allowed for a reduction in the credit amount, a termination of the credit, or a percentage of the credit amount previously claimed added back to the tax liability of that taxpayer under that act if the taxpayer failed to comply with any terms of the agreement or other conditions of that credit or if the taxpayer sells or otherwise moves the

property for which a credit was claimed fewer than 5 years after the year in which the credit was originally claimed under former 1975 PA 228 or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, shall have a percentage, or the entire amount, of the credit amount previously claimed under former 1975 PA 228 or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, added back to the taxpayer's tax liability under this act in the year that the taxpayer failed to satisfy or breached the conditions of that credit set forth under former 1975 PA 228 or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601.

(2) A taxpayer that has claimed a credit under section 35a of former 1975 PA 228 or under section 403 of the Michigan business tax act, 2007 PA 36, MCL 208.1403, for a tangible asset that the taxpayer has sold, transferred out of this state, or otherwise disposed of during the current tax year shall have an amount equal to the sum of the amounts calculated under subdivisions (a), (b), and (c) added back to the taxpayer's liability under this act for that same tax year:

(a) Calculate the gross proceeds or benefit derived from the sale or other disposition of tangible assets, other than mobile tangible assets, minus the gain, multiplied by the apportionment factor for the taxable year as prescribed in chapter 14, and plus the loss, multiplied by the apportionment factor for the taxable year as prescribed in chapter 14 from the sale or other disposition reflected in federal taxable income. This amount shall be multiplied by the rate at which the credit was used and to the extent the credit was used under either former 1975 PA 228 or section 403 of the Michigan business tax act, 2007 PA 36, MCL 208.1403, as applicable.

(b) Calculate the gross proceeds or benefit derived from the sale or other disposition of mobile tangible assets minus the gain and plus the loss from the sale or other disposition reflected in federal taxable income. This amount shall be multiplied by the apportionment factor for the tax year as prescribed in chapter 14. The resulting amount shall then be multiplied by the rate at which the credit was used and to the extent the credit was used under either former 1975 PA 228 or section 403 of the Michigan business tax act, 2007 PA 36, MCL 208.1403, as applicable.

(c) Calculate the federal basis used for determining gain or loss as of the date of the transfer of tangible assets, other than mobile tangible assets, from this state. This amount shall be multiplied by the rate at which the credit was used and to the extent the credit was used under either former 1975 PA 228 or section 403 of the Michigan business tax act, 2007 PA 36, MCL 208.1403, as applicable. For purposes of this subdivision, transfer means removal from this state of tangible assets, other than mobile tangible assets, by means other than sale or other disposition.

**History:** Add. 2011, Act 181, Eff. Jan. 1, 2012;—Am. 2014, Act 16, Imd. Eff. Feb. 25, 2014.

**Compiler's note:** Enacting section 1 of Act 16 of 2014 provides:

"Enacting section 1. This amendatory act is retroactive and effective for tax years beginning after December 31, 2011."

## CHAPTER 16

### **206.680 Election to pay tax imposed by Michigan business tax act; duration; taxpayer as member of unitary business group; separate return; annual return; "certificated credit" defined.**

Sec. 680. (1) Notwithstanding any other provision of this part, except as otherwise provided in subsection (2) for a certificated credit under section 435 or 437 of the Michigan business tax act, 2007 PA 36, MCL 208.1435 and 208.1437, a taxpayer that has been approved to receive, has received, or has been assigned a certificated credit that has not been fully claimed or paid prior to January 1, 2012 may, for the taxpayer's first tax year ending after December 31, 2011 only, elect to file a return and pay the tax imposed by the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, in lieu of the tax imposed by this part. An election under this subsection shall continue for the period prescribed in section 500(1) of the Michigan business tax act, 2007 PA 36, MCL 208.1500.

(2) A taxpayer with a certificated credit under section 435 or 437 of the Michigan business tax act, 2007 PA 36, MCL 208.1435 and 208.1437, which certificated credit may be claimed in a tax year ending after December 31, 2011 may elect to pay the tax imposed by the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, in the tax year in which that certificated credit or any unused carryforward may be claimed in lieu of the tax imposed by this part.

(3) A taxpayer that is a member of a unitary business group and that has a certificated credit under sections 431 and 434(2) and (5) of the Michigan business tax act, 2007 PA 36, MCL 208.1431 and 208.1434, is not required to file a combined return as a unitary business group and may elect to file a separate return and pay the tax, if any, under the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601.

(4) A taxpayer that elects to pay the tax imposed by the Michigan business tax act, 2007 PA 36, MCL

208.1101 to 208.1601, under this section is not required to file an annual return under this part.

(5) As used in this section, "certificated credit" means that term as defined in section 107 of the Michigan business tax act, 2007 PA 36, MCL 208.1107.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2012, Act 70, Imd. Eff. Mar. 29, 2012.

#### **206.681 Quarterly returns and estimated payments.**

Sec. 681. (1) Except as otherwise provided under this section, a taxpayer that reasonably expects liability for the tax year to exceed \$800.00 shall file an estimated return and pay an estimated tax for each quarter of the taxpayer's tax year.

(2) For taxpayers on a calendar year basis, the quarterly returns and estimated payments shall be made by April 15, July 15, October 15, and January 15. Taxpayers not on a calendar year basis shall file quarterly returns and make estimated payments on the appropriate due date which in the taxpayer's fiscal year corresponds to the calendar year.

(3) Except as otherwise provided under this subsection, the estimated payment made with each quarterly return of each tax year shall be for the estimated tax base that is applicable to the taxpayer under chapter 11, 12, or 13 for the quarter or 25% of the estimated annual liability. The second, third, and fourth estimated payments in each tax year shall include adjustments, if necessary, to correct underpayments or overpayments from previous quarterly payments in the tax year to a revised estimate of the annual tax liability. For a taxpayer that calculates and pays estimated payments for federal income tax purposes pursuant to section 6655(e) of the internal revenue code, that taxpayer may use the same methodology as used to calculate the annualized income installment or the adjusted seasonal installment, whichever is used as the basis for the federal estimated payment, to calculate the estimated payments required each quarter under this section. The interest and penalty provided by this part shall not be assessed if any of the following occur:

(a) If the sum of the estimated payments equals at least 85% of the liability and the amount of each estimated payment reasonably approximates the tax liability incurred during the quarter for which the estimated payment was made.

(b) For the 2013 tax year and each subsequent tax year, if the preceding year's tax liability under this part was \$20,000.00 or less and if the taxpayer submitted 4 equal installments the sum of which equals the immediately preceding tax year's tax liability.

(4) Each estimated return shall be made on a form prescribed by the department and shall include an estimate of the annual tax liability and other information required by the state treasurer. The form prescribed under this subsection may be combined with any other tax reporting form prescribed by the department.

(5) With respect to a taxpayer filing an estimated tax return for the taxpayer's first tax year of less than 12 months, the amounts paid with each return shall be proportional to the number of payments made in the first tax year. A taxpayer with a tax year of less than 4 months is not required to file an estimated tax return or remit estimated payments.

(6) Payments made under this section shall be a credit against the payment required with the annual tax return required in section 685.

(7) If the department considers it necessary to insure payment of the tax or to provide a more efficient administration of the tax, the department may require filing of the returns and payment of the tax for other than quarterly or annual periods.

(8) A taxpayer that elects under the internal revenue code to file an annual federal income tax return by March 1 in the year following the taxpayer's tax year and does not make a quarterly estimate or payment, or does not make a quarterly estimate or payment and files a tentative annual return with a tentative payment by January 15 in the year following the taxpayer's tax year and a final return by April 15 in the year following the taxpayer's tax year, has the same option in filing the estimated and annual returns required by this part.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 186, Eff. Jan. 1, 2012.

#### **206.683 Payment for portion of tax year; computation; methods.**

Sec. 683. (1) If a taxpayer's tax year to which this part applies ends before December 31, 2012, then a taxpayer subject to this part may elect to compute the tax imposed by this part for the portion of that tax year to which this part applies in accordance with 1 of the following methods:

(a) The tax may be computed as if this part were effective on the first day of the taxpayer's annual accounting period and the amount computed shall be multiplied by a fraction, the numerator of which is the number of months in the taxpayer's first tax year and the denominator of which is the number of months in the taxpayer's annual accounting period.

(b) The tax may be computed by determining the corporate income tax base in the first tax year in accordance with an accounting method satisfactory to the department that reflects the actual corporate income

tax base attributable to the period.

(2) The method chosen by the taxpayer under this section shall be the same as the method used by that same taxpayer when computing the tax imposed under the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, for the other portion of that same tax year.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 190, Eff. Jan. 1, 2012.

#### **206.685 Annual or final return; filing; form and content; remittance of final liability; calculation; extension.**

Sec. 685. (1) An annual or final return shall be filed with the department in the form and content prescribed by the department by the last day of the fourth month after the end of the taxpayer's tax year. Any final liability shall be remitted by the annual due date of the taxpayer's annual or final return, excluding any extension of time to file the return as provided under subsections (2) and (3). A taxpayer, other than a taxpayer subject to the tax imposed under chapter 12 or 13, whose apportioned or allocated gross receipts are less than \$350,000.00 does not need to file a return or pay the tax imposed under this part. The apportioned or allocated gross receipts of a flow-through entity shall be imputed to each of its members based upon the same percentage that each member's proportionate share of distributive income is to the total distributive income of the flow-through entity. A taxpayer whose tax liability under this part is less than or equal to \$100.00 does not need to file a return or pay the tax imposed under this part.

(2) If a taxpayer has apportioned or allocated gross receipts for a tax year of less than 12 months, the threshold amount of \$350,000.00 in subsection (1) shall be multiplied by a fraction, the numerator of which is the number of months in the tax year and the denominator of which is 12.

(3) The department, upon application of the taxpayer and for good cause shown, may extend the date for filing the annual return. Interest at the rate under section 23(2) of 1941 PA 122, MCL 205.23, shall be added to the amount of the tax unpaid for the period of the extension. The state treasurer shall require with the application payment of the estimated tax liability unpaid for the tax period covered by the extension.

(4) If a taxpayer is granted an extension of time within which to file the federal income tax return for any tax year, the filing of a copy of the request for extension together with a tentative return and payment of an estimated tax with the department by the due date provided in subsection (1) shall automatically extend the due date for the filing of an annual or final return under this part until the last day of the eighth month following the original due date of the return. Interest at the rate under section 23(2) of 1941 PA 122, MCL 205.23, shall be added to the amount of the tax unpaid for the period of the extension.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 184, Eff. Jan. 1, 2012.

#### **206.687 Furnishing copy of return filed under internal revenue code; amended return.**

Sec. 687. (1) A taxpayer required to file a return under this part may be required to furnish a true and correct copy of any return or portion of any return filed under the provisions of the internal revenue code.

(2) A taxpayer shall file an amended return with the department showing any alteration in or modification of a federal income tax return that affects its tax base under this part. The amended return shall be filed within 120 days after the final determination by the internal revenue service.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012.

#### **206.689 Information return of income paid to others.**

Sec. 689. At the request of the department, a taxpayer required by the internal revenue code to file or submit an information return of income paid to others shall, to the extent the information is applicable to residents of this state, at the same time file or submit the information in the form and content prescribed to the department.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012.

#### **206.691 Filing of combined return by unitary business group.**

Sec. 691. (1) Except as otherwise provided under section 680(3), a unitary business group shall file a combined return that includes each United States person that is included in the unitary business group. Each United States person included in a unitary business group or included in a combined return shall be treated as a single person, and all transactions between those persons included in the unitary business group shall be eliminated from the corporate income tax base, the apportionment formulas, and for purposes of determining exemptions, credits, and the filing threshold under this part. If a United States person included in a unitary business group or included in a combined return is subject to the tax under chapter 12 or 13, any corporate income attributable to that person shall be eliminated from the corporate income tax base and any sales attributable to that person shall be eliminated from the apportionment formula under this part.



(2) A person that is part of an affiliated group may elect without the consent of the department to have all of the persons that are included in that affiliated group to be treated as a unitary business group. A taxpayer that elects to file as a unitary business group pursuant to this subsection shall compute its tax under this part in accordance with all other provisions of this part that apply to a unitary business group. The taxpayer shall make the election under this subsection on a form or in a format as prescribed by the department that is to be filed in a timely manner with the taxpayer's annual return. Each person included in the affiliated group is deemed to have agreed to be bound by the election made under this subsection and any renewal of that election and to have waived any objection to its inclusion in the affiliated group and treatment as a unitary business group. Each person that subsequently enters the affiliated group after the tax year for which the election is made is deemed to have consented to the application of and is bound by the election and to have waived any objection to its inclusion in the affiliated group and treatment as a unitary business group. An election made pursuant to this subsection is irrevocable and binding for and applicable to the tax year for which it is made and for the next 9 tax years. The election shall remain in effect for the time period in which the ownership requirements under this section are met irrespective of whether a federal consolidated group to which the unitary business group belongs discontinues the filing of a federal consolidated return or whether the common parent changes due to a reverse acquisition or acquisition by a related person. Upon the expiration of the election after it has been in effect for 10 tax years, an election may be renewed for another 10 tax years, without the consent of the department; provided however, that in the case of a nonrenewal a new election under this subsection is not permitted in any of the immediately following 3 tax years. The renewal shall be made on a form or in a format as prescribed by the department that is to be filed in a timely manner with the taxpayer's annual return after the completion of a 10-year period for which an election under this subsection was in place.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2012, Act 70, Imd. Eff. Mar. 29, 2012;—Am. 2013, Act 266, Imd. Eff. Dec. 30, 2013;—Am. 2014, Act 14, Imd. Eff. Feb. 25, 2014.

**Compiler's note:** Enacting section 1 of Act 266 of 2013 provides:

"Enacting section 1. This amendatory act is effective for tax years that begin after December 31, 2012."

Enacting section 1 of Act 14 of 2014 provides:

"Enacting section 1. This amendatory act is effective for tax years that begin after December 31, 2013."

#### **206.693 Administration of tax; conflicting provisions; rules; forms; additional tax liability; statistics detailing distribution of tax receipts.**

Sec. 693. (1) The tax imposed by this part shall be administered by the department of treasury pursuant to 1941 PA 122, MCL 205.1 to 205.31, and this part. If a conflict exists between 1941 PA 122, MCL 205.1 to 205.31, and this part, the provisions of this part apply.

(2) The department may promulgate rules to implement this part pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(3) The department shall prescribe forms for use by taxpayers and may promulgate rules in conformity with this part for the maintenance by taxpayers of records, books, and accounts, and for the computation of the tax, the manner and time of changing or electing accounting methods and of exercising the various options contained in this part, the making of returns, and the ascertainment, assessment, and collection of the tax imposed under this part.

(4) The tax imposed by this part is in addition to all other taxes for which the taxpayer may be liable.

(5) The department shall prepare and publish statistics from the records kept to administer the tax imposed by this part that detail the distribution of tax receipts by type of business, legal form of organization, sources of tax base, timing of tax receipts, and types of deductions. The statistics shall not result in the disclosure of information regarding any specific taxpayer.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012.

#### **206.695 Distribution of revenue to general fund.**

Sec. 695. The revenue collected under this part shall be distributed to the general fund.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012.

#### **206.697 Appropriation; carrying forward unexpended funds.**

Sec. 697. There is appropriated to the department for the 2011-2012 state fiscal year the sum of \$1,000,000.00 to begin implementing the requirements of this part. Any portion of this amount under this section that is not expended in the 2011-2012 state fiscal year shall not lapse to the general fund but shall be carried forward in a work project account that is in compliance with section 451a of the management and budget act, 1984 PA 431, MCL 18.1451a, for the following state fiscal year.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012.

### **206.699 Classification as disregarded entity for federal income tax purposes.**

Sec. 699. Notwithstanding any other provision of this act, a person that is a disregarded entity for federal income tax purposes under the internal revenue code shall be classified as a disregarded entity for purposes of parts 2 and 3 of this act.

**History:** Add. 2011, Act 309, Eff. Jan. 1, 2012.

## PART 3

### CHAPTER 17

#### **206.701 Definitions.**

Sec. 701. As used in this part:

- (a) "Casino" means that term as defined in section 110.
- (b) "Casino licensee" means a person licensed to operate a casino under the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226.
- (c) "Eligible production company" means that term as defined under section 455 of the Michigan business tax act, 2007 PA 36, MCL 208.1455.
- (d) "Flow-through entity" means an entity that for the applicable tax year is treated as an S corporation under section 1362(a) of the internal revenue code, a general partnership, a limited partnership, a limited liability partnership, or a limited liability company, that for the applicable tax year is not taxed as a corporation for federal income tax purposes. Flow-through entity does not include any entity disregarded under section 699.
- (e) "Member" means a shareholder of an S corporation, a partner in a general partnership, a limited partnership, or a limited liability partnership, a member of a limited liability company, or a beneficiary of a trust, that is a flow-through entity.
- (f) "Nonresident" means an individual who is not a resident of or domiciled in this state, a business entity that does not have its commercial domicile in this state, or a trust not organized in this state.
- (g) "Partnership" means a taxpayer that is required to or has elected to file as a partnership for federal income tax purposes.
- (h) "Publicly traded partnership" means that term as defined under section 7704 of the internal revenue code.
- (i) "Race meeting licensee" and "track licensee" mean a person to whom a race meeting license or track license is issued pursuant to section 8 of the horse racing law of 1995, 1995 PA 279, MCL 431.308.
- (j) "S corporation" means a corporation electing taxation under subchapter S of chapter 1 of subtitle A of the internal revenue code, sections 1361 to 1379 of the internal revenue code.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 194, Eff. Jan. 1, 2012;—Am. 2011, Act 311, Eff. Jan. 1, 2012.

**Compiler's note:** This section as added by Act 38 of 2011 was assigned the compilation number "206.701". To avoid a conflict with another section previously numbered "206.701", Sec. 701 of 2006 PA 513 has been renumbered as 206.901.

#### **206.703 Tax withholding; deduction; amount; computation; duties of employer; flow-through entity; casino licensee; racing licensee or track licensee; eligible production company; publicly traded partnership; agreement with community college; nonresident individual; exemption certificate; disbursement pursuant to qualified charitable gift annuity; receipt of exemption certificate from member other than nonresident individual; tax withheld by flow-through entity; revocation of election provided in subsection (16); election to file return and pay tax; exception from certain withholding requirements; conditions.**

Sec. 703. (1) A person who disburses pension or annuity payments, except as otherwise provided under this section, shall withhold a tax in an amount computed by applying the rate prescribed in section 51 on the taxable part of payments from an employer pension, annuity, profit-sharing, stock bonus, or other deferred compensation plan as well as from an individual retirement arrangement, an annuity, an endowment, or a life insurance contract issued by a life insurance company. Withholding shall be calculated on the taxable disbursement after deducting from the taxable portion the same proportion of the total amount of personal and dependency exemptions of the individual allowed under this act. Withholding is not required on any part of a distribution that is not expected to be includable in the recipient's gross income or that is deductible from adjusted gross income under section 30(1)(e) or (f).

(2) Every employer in this state required under the provisions of the internal revenue code to withhold a tax on the compensation of an individual, except as otherwise provided, shall deduct and withhold a tax in an

amount computed by applying, except as provided by subsection (14), the rate prescribed in section 51 to the remainder of the compensation after deducting from compensation the same proportion of the total amount of personal and dependency exemptions of the individual allowed under this act that the period of time covered by the compensation is of 1 year. The department may prescribe withholding tables that may be used by employers to compute the amount of tax required to be withheld.

(3) Except as otherwise provided under this section, for tax years that begin before July 1, 2016, every flow-through entity in this state shall withhold a tax in an amount computed by applying the rate prescribed in section 51 to the distributive share of taxable income reasonably expected to accrue after allocation and apportionment under chapter 3 of each nonresident member who is an individual after deducting from that distributive income the same proportion of the total amount of personal and dependency exemptions of the individual allowed under this act. All of the taxes withheld under this section shall accrue to the state on April 15, July 15, and October 15 of the flow-through entity's tax year and January 15 of the following year, except a flow-through entity that is not on a calendar year basis shall substitute the appropriate due dates in the flow-through entity's fiscal year that correspond to those in a calendar year. Withholding for each period shall be equal to 1/4 of the total withholding calculated on the distributive share that is reasonably expected to accrue during the tax year of the flow-through entity.

(4) Except as otherwise provided under this section, for tax years that begin before July 1, 2016, every flow-through entity with business activity in this state that has more than \$200,000.00 of business income reasonably expected to accrue in the tax year after allocation or apportionment shall withhold a tax in an amount computed by applying the rate prescribed in section 623 to the distributive share of the business income of each member that is a corporation or that is a flow-through entity. For purposes of calculating the \$200,000.00 withholding threshold, the business income of a flow-through entity shall be apportioned to this state by multiplying the business income by the sales factor of the flow-through entity. The sales factor of the flow-through entity is a fraction, the numerator of which is the total sales of the flow-through entity in this state during the tax year and the denominator of which is the total sales of the flow-through entity everywhere during the tax year. As used in this subsection, "business income" means that term as defined in section 603(2). For a partnership or S corporation, business income includes payments and items of income and expense that are attributable to business activity of the partnership or S corporation and separately reported to the members. As used in this subsection, "sales" means that term as defined in section 609 and sales in this state is determined as provided in sections 665 and 669. All of the taxes withheld under this section shall accrue to the state on April 15, July 15, and October 15 of the flow-through entity's tax year and January 15 of the following year, except a flow-through entity that is not on a calendar year basis shall substitute the appropriate due dates in the flow-through entity's fiscal year that correspond to those in a calendar year. Withholding for each period shall be equal to 1/4 of the total withholding calculated on the distributive share of business income that is reasonably expected to accrue during the tax year of the flow-through entity.

(5) For tax years that begin before July 1, 2016, if a flow-through entity is subject to the withholding requirements of subsection (4), then a member of that flow-through entity that is itself a flow-through entity shall withhold a tax on the distributive share of business income as described in subsection (4) of each of its members. The department shall apply tax withheld by a flow-through entity on the distributive share of business income of a member flow-through entity to the withholding required of that member flow-through entity. All of the taxes withheld under this section shall accrue to the state on April 15, July 15, and October 15 of the flow-through entity's tax year and January 15 of the following year, except a flow-through entity that is not on a calendar year basis shall substitute the appropriate due dates in the flow-through entity's fiscal year that correspond to those in a calendar year. Withholding for each period shall be equal to 1/4 of the total withholding calculated on the distributive share of business income that is reasonably expected to accrue during the tax year of the flow-through entity.

(6) Every casino licensee shall withhold a tax in an amount computed by applying the rate prescribed in section 51 to the winnings of a nonresident reportable by the casino licensee under the internal revenue code.

(7) Every race meeting licensee or track licensee shall withhold a tax in an amount computed by applying the rate prescribed in section 51 to a payoff price on a winning ticket of a nonresident reportable by the race meeting licensee or track licensee under the internal revenue code that is the result of pari-mutuel wagering at a licensed race meeting.

(8) Every casino licensee or race meeting licensee or track licensee shall report winnings of a resident reportable by the casino licensee or race meeting licensee or track licensee under the internal revenue code to the department in the same manner and format as required under the internal revenue code.

(9) Every eligible production company shall, to the extent not withheld by a professional services corporation or professional employer organization, deduct and withhold a tax in an amount computed by applying the rate prescribed in section 51 to the remainder of the payments made to the professional services

corporation or professional employer organization for the services of a performing artist or crew member after deducting from those payments the same proportion of the total amount of personal and dependency exemptions of the individuals allowed under this act.

(10) Every publicly traded partnership that has equity securities registered with the securities and exchange commission under section 12 of title I of the securities and exchange act of 1934, 15 USC 78l, shall not be subject to withholding.

(11) Except as otherwise provided under this subsection, all of the taxes withheld under this section shall accrue to the state on the last day of the month in which the taxes are withheld but shall be returned and paid to the department by the employer, eligible production company, casino licensee, or race meeting licensee or track licensee within 15 days after the end of any month or as provided in section 705. For an employer that has entered into an agreement with a community college pursuant to chapter 13 of the community college act of 1966, 1966 PA 331, MCL 389.161 to 389.166, a portion of the taxes withheld under this section that are attributable to each employee in a new job created pursuant to the agreement shall accrue to the community college on the last day of the month in which the taxes are withheld but shall be returned and paid to the community college by the employer within 15 days after the end of any month or as provided in section 705 for as long as the agreement remains in effect. For purposes of this act and 1941 PA 122, MCL 205.1 to 205.31, payments made by an employer to a community college under this subsection shall be considered income taxes paid to this state.

(12) A person required by this section to deduct and withhold taxes on income under this section holds the amount of tax withheld as a trustee for this state and is liable for the payment of the tax to this state or, if applicable, to the community college and is not liable to any individual for the amount of the payment.

(13) An employer in this state is not required to deduct and withhold a tax on the compensation paid to a nonresident individual employee, who, under section 256, may claim a tax credit equal to or in excess of the tax estimated to be due for the tax year or is exempted from liability for the tax imposed by this act. In each tax year, the nonresident individual shall furnish to the employer, on a form approved by the department, a verified statement of nonresidence.

(14) A person required to withhold a tax under this act, by the fifteenth day of the following month, shall provide the department with a copy of any exemption certificate on which a person with income subject to withholding under subsection (6) or (7) claims more than 9 personal or dependency exemptions, claims a status that exempts the person subject to withholding under subsection (6) or (7) from withholding under this section.

(15) A person who disburses annuity payments pursuant to the terms of a qualified charitable gift annuity is not required to deduct and withhold a tax on those payments as prescribed under subsection (1). As used in this subsection, "qualified charitable gift annuity" means an annuity described under section 501(m)(5) of the internal revenue code and issued by an organization exempt under section 501(c)(3) of the internal revenue code.

(16) Notwithstanding the requirements of subsections (4) and (5), if a flow-through entity receives an exemption certificate from a member other than a nonresident individual, the flow-through entity shall not withhold a tax on the distributive share of the business income of that member if all of the following conditions are met:

(a) The exemption certificate is completed by the member in the form and manner prescribed by the department and certifies that the member will do all of the following:

(i) File the returns required under this act.

(ii) Pay or withhold the tax required under this act on the distributive share of the business income received from any flow-through entity in which the member has an ownership or beneficial interest, directly or indirectly through 1 or more other flow-through entities.

(iii) Submit to the taxing jurisdiction of this state for purposes of collection of the tax under this act together with related interest and penalties under 1941 PA 122, MCL 205.1 to 205.31, imposed on the member with respect to the distributive share of the business income of that member.

(b) The department may require the member to file the exemption certificate with the department and provide a copy to the flow-through entity.

(c) The department may require a flow-through entity that receives an exemption certificate to attach a copy of the exemption certificate to the annual reconciliation return as required by section 711. A flow-through entity that is entirely exempt from the withholding requirements of subsection (4) or (5) by this subsection may be required to furnish a copy of the exemption certificate in another manner prescribed by the department.

(d) A copy of the exemption certificate shall be retained by the member and flow-through entity and made available to the department upon request. Any copy of the exemption certificate shall be maintained in a

format and for the period required by 1941 PA 122, MCL 205.1 to 205.31.

(17) The department may revoke the election provided for in subsection (16) if it determines that the member or a flow-through entity is not abiding by the terms of the exemption certificate or the requirements of subsection (16). If the department does revoke the election option under subsection (16), the department shall notify the affected flow-through entity that withholding is required on the member under subsection (4) or (5), beginning 60 days after notice of revocation is received.

(18) Notwithstanding the requirements of subsections (4) and (5), a flow-through entity is not required to withhold in accordance with this section for a member that voluntarily elects to file a return and pay the tax imposed by the Michigan business tax act under section 680 or section 500 of the Michigan business tax act, 2007 PA 36, MCL 208.1500.

(19) Notwithstanding the withholding requirements of subsection (3), (4), or (5), a flow-through entity is not required to comply with those withholding requirements to the extent that the withholding would violate any of the following:

(a) Housing assistance payment programs distribution restrictions under 24 CFR part 880, 881, 883, or 891.

(b) Rural housing service return on investment restrictions under 7 CFR 3560.68 or 3560.305.

(c) Articles of incorporation or other document of organization adopted pursuant to section 83 or 93 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1483 and 125.1493.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 188, Eff. Jan. 1, 2012;—Am. 2012, Act 217, Imd. Eff. June 28, 2012;—Am. 2013, Act 15, Eff. Apr. 16, 2013;—Am. 2014, Act 295, Imd. Eff. Sept. 30, 2014;—Am. 2016, Act 158, Eff. July 1, 2016.

**Compiler's note:** This section as added by Act 38 of 2011 was assigned the compilation number "206.703". To avoid a conflict with another section previously numbered "206.703", Sec. 703 of 2006 PA 513 has been renumbered as 206.903.

Enacting section 1 of Act 15 of 2013 provides:

"Enacting section 1. This amendatory act is retroactive and effective January 1, 2013."

#### **206.705 Payment at other than monthly periods or deposit in separate bank account; grounds.**

Sec. 705. All provisions relating to the administration, collection, and enforcement of this act and 1941 PA 122, MCL 205.1 to 205.31, apply to all persons required to withhold taxes and to the taxes required to be withheld under this part. If the department has reasonable grounds to believe that a person required to withhold taxes under this part will not pay taxes withheld to this state or, if applicable, to the community college, as prescribed by this part, or to provide a more efficient administration, the department may require that person to make the return and pay to the department or, if applicable, to the community college, the tax deducted and withheld at other than monthly periods, or from time to time, or require that person to deposit the tax in a bank approved by the department in a separate account, in trust for the department or, if applicable, the community college, and payable to the department or the community college, and to keep the amount of the taxes in the account until payment over to the department or the community college.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 192, Eff. Jan. 1, 2012.

**Compiler's note:** This section as added by Act 38 of 2011 was assigned the compilation number "206.705". To avoid a conflict with another section previously numbered "206.705", Sec. 705 of 2006 PA 513 has been renumbered as 206.905.

#### **206.707 Filing 1099-MISC; failure to comply with filing requirement; penalty; filing with city.**

Sec. 707. (1) A person required under the internal revenue code to file a form 1099-MISC for a tax year shall file a copy of that form 1099-MISC with the department on or before January 31 each year or on or before the day required for filing form 1099-MISC under the internal revenue code, whichever is later.

(2) A person who fails to comply with subsection (1) is liable to the department for a penalty of \$50.00 for each form 1099-MISC the taxpayer fails to file.

(3) A person required to file a form 1099-MISC under this section shall also file a copy of the form 1099-MISC with the city reported as the payee's address on the form 1099-MISC if that city imposes a city income tax pursuant to the city income tax act, 1964 PA 284, MCL 141.501 to 141.787.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012.

**Compiler's note:** This section as added by Act 38 of 2011 was assigned the compilation number "206.707". To avoid a conflict with another section previously numbered "206.707", Sec. 707 of 2006 PA 513 has been renumbered as 206.907.

#### **206.709 Federal or state employer; return by officer of employer having control of payment of compensation.**

Sec. 709. If the employer is the United States or this state, or any political subdivision of the United States or this state, or any agency or instrumentality of any of the foregoing, the return of the amount deducted and withheld upon compensation may be made by any officer of the employer having control of the payment of

the compensation or an officer appropriately designated for that purpose.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012.

**Compiler's note:** This section as added by Act 38 of 2011 was assigned the compilation number "206.709". To avoid a conflict with another section previously numbered "206.709", Sec. 709 of 2006 PA 513 has been renumbered as 206.909.

**206.711 Income other than distributive share from flow-through entity; tax withholding and deduction; duplicate statement; annual reconciliation return; agreement with community college; delineation of taxes withheld and paid to state attributable to certified new jobs under good jobs for Michigan program; filing revised information; failure or refusal to furnish information.**

Sec. 711. (1) Every person required by this part to deduct and withhold taxes for a tax year on income other than distributive share of income from a flow-through entity shall furnish to the person who received the income a statement in duplicate on or before January 31 of the succeeding year of the total income paid during the tax year and the amount deducted or withheld. However, if employment is terminated before the close of a calendar year by a person that goes out of business or permanently ceases to exist, then the statement required by this subsection shall be issued within 30 days after the last compensation, winnings, or payoff of a winning ticket is paid. A duplicate of a statement made pursuant to this section and an annual reconciliation return, MI-W3, shall be filed with the department by February 28 of the succeeding year for tax years before the 2018 tax year and by January 31 of the succeeding year for the 2018 tax year and each tax year after 2018 except that a person that goes out of business or permanently ceases to exist shall file the statement and the annual reconciliation return within 30 days after going out of business or permanently ceasing to exist. For tax years that begin before July 1, 2016, a flow-through entity that was required to withhold taxes on distributive shares of business income shall file an annual reconciliation return with the department no later than the last day of the second month following the end of the flow-through entity's federal tax year. The department may require a flow-through entity to file an annual business income information return with the department on the due date, including extensions, of its annual federal information return.

(2) Every person required by this part to deduct or withhold taxes shall make a return or report in form and content and at times as prescribed by the department. An employer that has more than 250 employees shall file its annual return or report required under this section in electronic form. An employer that has entered into an agreement with a community college pursuant to chapter 13 of the community college act of 1966, 1966 PA 331, MCL 389.161 to 389.166, and is required to deduct or withhold taxes from compensation and make payments to a community college pursuant to the agreement for a portion of those taxes withheld shall, for as long as the agreement remains in effect, delineate in the return or report required under this subsection between the amount deducted or withheld and paid to the state and that amount paid to a community college. An employer that has entered into a written agreement pursuant to the good jobs for Michigan program created under section 90h of the Michigan strategic fund act, 1984 PA 270, MCL 125.2090h, shall, for as long as the written agreement remains in effect, delineate in the return or report required under this subsection the portion of those taxes withheld and paid to the state that are attributable to certified new jobs.

(3) Every person who receives income subject to withholding under this part shall furnish to the person required by this part to deduct and withhold taxes information required to make an accurate withholding. A person who receives income subject to withholding under this part shall file with the person required by this part to deduct and withhold taxes revised information within 10 days after a decrease in the number of exemptions or a change in status from a nonresident to a resident. The person who receives income subject to withholding under this part may file revised information when the number of exemptions increases or when a change in status occurs from that of a resident of this state to a nonresident of this state. Revised information shall not be given retroactive effect for withholding purposes. A person required by this part to deduct and withhold taxes shall rely on this information for withholding purposes unless directed by the department to withhold on some other basis. If a person who receives income subject to withholding under this part fails or refuses to furnish information, the person required by this part to deduct and withhold taxes shall withhold at the full rate of tax from the person's income subject to withholding under this part.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2011, Act 193, Eff. Jan. 1, 2012;—Am. 2016, Act 158, Eff. July 1, 2016;—Am. 2017, Act 110, Eff. Aug. 25, 2017;—Am. 2018, Act 118, Imd. Eff. Apr. 26, 2018.

**Compiler's note:** This section as added by Act 38 of 2011 was assigned the compilation number "206.711". To avoid a conflict with another section previously numbered "206.711", Sec. 711 of 2006 PA 513 has been renumbered as 206.911.

**206.713 Report on operation and effectiveness of new jobs training programs and corresponding withholding requirements; contents.**

Sec. 713. By July 1 of each year, based on the information received from each community college district pursuant to section 163 of the community college act of 1966, 1966 PA 331, MCL 389.163, the department shall submit to the governor, the clerk of the house of representatives, the secretary of the senate, the chairperson of each standing committee that has jurisdiction over economic development issues, the chairperson of each legislative budget subcommittee that has jurisdiction over economic development issues, and the president of the Michigan strategic fund an annual report concerning the operation and effectiveness of the new jobs training programs and the corresponding withholding requirements under this chapter. The report shall include all of the following:

(a) The number of community colleges participating in the new jobs training program and the names of those colleges.

(b) The number of employers that have entered into agreements with community colleges pursuant to the new jobs training program and the names of those employers organized by major industry group under the standard industrial classification code as compiled by the United States department of labor.

(c) The total amount of money from a new jobs credit from withholding each employer described in subdivision (b) has remitted to the community college district.

(d) The total amount of new jobs training revenue bonds each community college district has authorized, issued, or sold.

(e) The total amount of each community college district's debt related to agreements at the end of the calendar year.

(f) The number of degrees or certificates awarded to program participants in the calendar year.

(g) The number of individuals who entered a program at each community college district in the calendar year; who completed the program in the calendar year; and who were enrolled in a program at the end of the calendar year.

(h) The number of individuals who completed a program and were hired by an employer described in subdivision (b) to fill new jobs.

**History:** Add. 2011, Act 38, Eff. Jan. 1, 2012.