

Act No. 283  
Public Acts of 1990  
Approved by the Governor  
December 13, 1990  
Filed with the Secretary of State  
December 14, 1990

**STATE OF MICHIGAN  
85TH LEGISLATURE  
REGULAR SESSION OF 1990**

Introduced by Reps. Gire, DeBeaussaert, Rocca, Barns, Bartnik, DeMars, Webb, Stabenow, Jondahl, Ciaramitaro, Profit, Pitoniak, Bennett, Hart, Niederstadt, Maynard, Hoffman, Stallworth, Gubow, Martin, Joe Young, Jr., Scott, Kulchitsky, Weeks, Runco, Spaniola, Hertel and Mathieu

# ENROLLED HOUSE BILL No. 5537

AN ACT to amend sections 51, 110, 508, and 520 of Act No. 281 of the Public Acts of 1967, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, and enforcement by lien and otherwise of taxes on or measured by net income; 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 certain acts and parts of acts," section 51 as amended by Act No. 16 of the Public Acts of 1986 and section 520 as amended by Act No. 516 of the Public Acts of 1988, being sections 206.51, 206.110, 206.508, and 206.520 of the Michigan Compiled Laws; and to repeal certain acts and parts of acts.

*The People of the State of Michigan enact:*

Section 1. Sections 51, 110, 508, and 520 of Act No. 281 of the Public Acts of 1967, section 51 as amended by Act No. 16 of the Public Acts of 1986 and section 520 as amended by Act No. 516 of the Public Acts of 1988, being sections 206.51, 206.110, 206.508, and 206.520 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 51. (1) For receiving, earning, or otherwise acquiring income from any source whatsoever, there is levied and imposed a tax at the rate of 4.6% upon the taxable income of every person, other than a corporation.

(2) As used in this section, "taxable income" means taxable income as defined in this act subject to the applicable source and attribution rules contained in this act.

(3) As used in this section, a person other than a corporation means the following in addition to a resident or nonresident individual:

- (a) A partner in a partnership as defined in the internal revenue code.
- (b) A beneficiary of an estate or a trust as defined in the internal revenue code.
- (c) An estate or trust as defined in the internal revenue code.

(4) As used in this section, the taxable income of a nonresident shall be computed in the same manner as in the case of a resident, subject to the allocation and apportionment provisions of this act.

(5) 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 act. The credit shall be all or a proportionate part of any tax paid by the trust under this act 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 taxable income.

(6) 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 subpart E of part I of subchapter J of chapter 1 of the internal revenue code, sections 671 through 679, shall include items of income and deductions from the trust in taxable income to the extent required by this act with respect to property owned outright.

(7) 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 act.

Sec. 110. (1) For a resident individual, estate, or trust, all taxable income from any source whatsoever, except that attributable to another state under the provisions of sections 111 to 115 and subject to the credit provisions of 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 the provisions of sections 111 to 114 and subject to the credit provisions of section 256.

(3)(a) 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 Michigan shall be in proportion to their respective shares of distributable net income under 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 income attributable to Michigan 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 Michigan shall be allocated to the estate or trust.

(b) A nonresident estate or trust shall be allowed the credit provided in section 256, except that the limitation shall be computed by reference to the taxable income of 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.

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 Act No. 346 of the Public Acts of 1966, as amended, being section 125.1415a of the Michigan Compiled Laws, 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 Act No. 243 of the Public Acts of 1959, being section 125.1041 of the Michigan Compiled Laws, is considered a property tax.

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

(4) "Household income" means all income received by all persons of a household in a tax year while members of a household.

Sec. 520. (1) Subject to the limitations and the definitions set out in this chapter, a claimant may claim against his or her state income tax otherwise due for the tax year a credit for the property taxes on the homestead deductible for federal income taxes 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.

(2) A person who is renting or leasing a homestead may claim a similar credit, computed pursuant to section 522, that shall be based upon 17% of the gross rent paid. A person renting or leasing 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, Act No. 346 of the Public Acts of 1966, as amended, being section 125.1415a of the Michigan Compiled Laws, may claim a similar credit, computed pursuant to section 522, that shall be based upon 10% of the gross rent paid.

(3) If the allowable amount of the credit claimed under this section exceeds the state income tax otherwise due for the tax year or if there is no state income tax due for the tax year, the amount of the claim not used as an offset against the state income tax shall, after examination and review, be approved for payment, without interest, to the claimant. A payment approved pursuant to this subsection to a claimant eligible for a credit under subsection (1) shall be made in a check or warrant exclusive of refunds due for withholdings or other credits allowed by this act. In determining the amount of this check or warrant, 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 who 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 shall be 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 is claiming and receiving a credit or payment under this chapter is guilty of a misdemeanor. Discrimination against a renter claiming and receiving the credit by reduction of rent on the homestead of a person not claiming or receiving the credit is a misdemeanor. If discriminatory rents are charged or collected, each charge and collection of both the higher and lower payment shall be considered a separate offense. Each acceptance of a payment of rent shall be considered a separate offense.

(7) A person who received aid to dependent children payments pursuant to section 56 of the social welfare act, Act No. 280 of the Public Acts of 1939, as amended, being section 400.56 of the Michigan Compiled Laws, or general assistance pursuant to sections 55 and 55a of the social welfare act, Act No. 280 of the Public Acts of 1939, as amended, being sections 400.55 and 400.55a of the Michigan Compiled Laws, in the tax year for which the person is filing a return shall have a credit that is authorized pursuant to this section and computed pursuant to section 522 reduced by an amount equal to the product of the claimant's credit, as computed pursuant to section 522, multiplied by the quotient of the sum of the claimant's aid to dependent children payments and general assistance for the tax year divided by the claimant's household income. The reduction of credit shall not exceed the sum of the aid to dependent children payments and general assistance for the tax year. For the purposes of this subsection, aid to dependent children payments do not include child support payments that offset or reduce payments made to the claimant. This subsection applies only to the 1980 through the 1991 tax years.

(8) For tax years commencing after December 31, 1984, a credit under subsection (1) or (2) shall be reduced by 10% for each claimant whose household income exceeds \$73,650.00 and by an additional 10% for each increment of \$1,000.00 of household income in excess of \$73,650.00.

(9) If the credit permitted by subsection (2), that is calculated pursuant to section 522 and adjusted pursuant to subsection (7) or (8), does not provide to a senior citizen who is renting or leasing a homestead that amount attributable to rent that constitutes more than the following percentage of the household income of the senior

citizen, the senior citizen may claim a credit based upon the amount of household income attributable to rent as provided by this section, subject to the limitations of this section:

- (a) 50% for a credit claimed for the 1982 tax year.
- (b) 45% for a credit claimed for the 1983 tax year.
- (c) 40% for a credit claimed for the 1984 tax year or a tax year after the 1984 tax year.

(10) For tax years commencing after December 31, 1981, a senior citizen whose gross rent paid for the tax year is more than the percentage of household income 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 household income of the senior citizen specified in subsection (9) for the respective tax year and that was not provided to the senior citizen by the credit computed pursuant to section 522 and adjusted pursuant to subsection (7) or (8).

(11) The department may promulgate rules to implement subsections (9) to (16) and may prescribe a table to allow a claimant to determine the credit provided under subsections (9) to (16) 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 (16) 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, after December 31, 1981, 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 (16) and the amount of a credit under subsections (9) to (16) 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 (16) shall be reduced proportionately.

(15) The Michigan state housing development authority shall report on the effect of the credit provided by subsections (9) to (16) on the price of rented and leased homesteads. If the authority determines that the price of rented and leased homesteads has increased as a result of the credit provided by subsections (9) to (16), the authority shall make recommendations to the legislature to remedy this situation. The report shall be made to the chairpersons of the house and senate committees that have primary responsibility for taxation legislation 2 years after the credit provided by subsections (9) to (16) is in effect.

(16) The total credit allowed by subsections (9) to (15) and section 522 shall not exceed \$1,200.00 per year.

(17) Subsection (8) does not apply for any tax year to which subsection (7) does not apply.

Section 2. Section 527 of Act No. 281 of the Public Acts of 1967, being section 206.527 of the Michigan Compiled Laws, is repealed.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.

