

SENATE BILL No. 114

February 8, 1989, Introduced by Senators N. SMITH, DINGELL, FREDRICKS, SEDERBURG, CRUCE, GEAKE, EHLERS, IRWIN, GAST, DI NELLO, DE GROW, FESSLER, CROPSEY, WELBORN and O'BRIEN and referred to the Committee on Finance.

A bill to amend section 30 of Act No. 281 of the Public Acts of 1967, entitled

"Income tax act of 1967,"

as amended by Act No. 516 of the Public Acts of 1988, being section 206.30 of the Michigan Compiled Laws; and to add section 57.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 30 of Act No. 281 of the Public Acts of
2 1967, as amended by Act No. 516 of the Public Acts of 1988, being
3 section 206.30 of the Michigan Compiled Laws, is amended and sec-
4 tion 57 is added to read as follows:

5 Sec. 30. (1) "Taxable income" MEANS, for a person other
6 than a corporation, estate, or trust, ~~means~~ adjusted gross
7 income as defined in the internal revenue code subject to the
8 following adjustments:

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

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

10 (c) Add losses on the sale or exchange of obligations of the
11 United States government, the income of which this state is pro-
12 hibited from subjecting to a net income tax, to the extent that
13 the loss has been deducted in arriving at federal adjusted gross
14 income.

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

24 (e) Deduct, to the extent included in federal adjusted gross
25 income, compensation, including retirement benefits, received for
26 services in the armed forces of the United States.

1 (f) Deduct THE FOLLOWING to the extent included in FEDERAL
2 adjusted gross income:

3 (i) Retirement or pension benefits received from a public
4 retirement system of or created by this state or a political sub-
5 division of this state.

6 (ii) ~~Any retirement~~ RETIREMENT or pension benefits
7 received from a public retirement system of or created by another
8 state or any of its political subdivisions if the income tax laws
9 of the other state permit a similar deduction or exemption or a
10 reciprocal deduction or exemption of a retirement or pension ben-
11 efit received from a public retirement system of or created by
12 this state or any of the political subdivisions of this state.

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

15 (iv) Retirement or pension benefits from any other retire-
16 ment or pension system as follows:

17 (A) For a single return, the sum of not more than
18 \$7,500.00.

19 (B) For a joint return, the sum of not more than
20 \$10,000.00.

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

24 (g) Adjustments resulting from the application of section
25 271.

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

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

3 (j) Deduct political contributions as defined in section 4
4 of Act No. 388 of the Public Acts of 1976, being section 169.204
5 of the Michigan Compiled Laws, or section 301 of title III of the
6 federal election campaign act of 1971, Public Law 92-225, 2
7 U.S.C. 431, not in excess of \$50.00 per annum, or \$100.00 per
8 annum for a joint return.

9 (k) Deduct, to the extent included in FEDERAL adjusted gross
10 income, wages not deductible under section 280C of the internal
11 revenue code.

12 (l) Deduct the following payments made by the taxpayer in
13 the tax year:

14 (i) The amount of payment made under an advance tuition pay-
15 ment contract as provided in the Michigan education trust act,
16 Act No. 316 of the Public Acts of 1986, being sections 390.1421
17 to 390.1444 of the Michigan Compiled Laws.

18 (ii) The amount of payment made under a contract with a pri-
19 vate sector investment manager that meets all of the following
20 criteria:

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

25 (B) The contract applies only for a state institution of
26 higher education as defined in the Michigan education trust act,

1 Act No. 316 of the Public Acts of 1986, or a community or junior
2 college in Michigan.

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

6 (D) The contract is entered into AFTER either OF THE
7 FOLLOWING:

8 (I) ~~After the~~ THE purchaser has had his or her offer to
9 enter into an advance tuition payment contract rejected by the
10 board OF DIRECTORS OF THE MICHIGAN EDUCATION TRUST, if the board
11 determines that the trust cannot accept an unlimited number of
12 enrollees upon an actuarially sound basis.

13 (II) ~~After the~~ THE board OF DIRECTORS OF THE MICHIGAN EDU-
14 CATION TRUST determines that the trust can accept an unlimited
15 number of enrollees upon an actuarially sound basis.

16 (m) If an advance tuition payment contract under the
17 Michigan education trust act, Act No. 316 of the Public Acts of
18 1986, or another contract for which the payment was deductible
19 under subdivision (l) is terminated and the qualified beneficiary
20 under that contract does not attend a university, college, junior
21 or community college, or other institution of higher education,
22 add the amount of a refund received by the taxpayer as a result
23 of that termination ~~which amount shall be the lesser of the~~
24 ~~amount of the refund~~ or the amount of the deduction taken under
25 subdivision (l) for payment made under that contract, WHICHEVER
26 IS LESS.

1 (n) Deduct from the taxable income of a purchaser the amount
2 included as income to the purchaser under the internal revenue
3 code after the advance tuition payment contract entered into
4 under the Michigan education trust act, Act No. 316 of the Public
5 Acts of 1986, is terminated because the qualified beneficiary
6 attends an institution of postsecondary education other than
7 either a state institution of higher education or an institution
8 of postsecondary education located outside this state with which
9 a state institution of higher education has reciprocity.

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

13 (p) Deduct a net operating loss deduction for the taxable
14 year as defined in section 172 of the internal revenue code
15 subject to the modifications under section 172(b)(2) of the
16 internal revenue code and subject to the allocation and appor-
17 tionment provisions of chapter 3 of this act for the taxable year
18 in which the loss was incurred.

19 (q) For a tax year beginning after 1986, deduct, to the
20 extent included in FEDERAL adjusted gross income, benefits from a
21 discriminatory self-insurance medical expense reimbursement
22 plan.

23 (R) DEDUCT THE AMOUNT ALLOWED AS A DEDUCTION UNDER SECTION
24 57.

25 (2) ~~For a tax year beginning during 1987, a personal exemp-~~
26 ~~tion of \$1,600.00, for a tax year beginning during 1988, a~~
27 ~~personal exemption of \$1,800.00, for a tax year beginning during~~

~~1 1989, a personal exemption of \$2,000.00; and for a tax year~~
~~2 beginning after 1989, a personal exemption of \$2,100.00 times~~
3 THE FOLLOWING PERSONAL EXEMPTIONS MULTIPLIED BY the number of
4 personal or dependency exemptions allowable on the taxpayer's
5 federal income tax return pursuant to the internal revenue code
6 shall be subtracted from taxable income:

- 7 (A) FOR A TAX YEAR BEGINNING DURING 1987..... \$1,600.00.
8 (B) FOR A TAX YEAR BEGINNING DURING 1988..... \$1,800.00.
9 (C) FOR A TAX YEAR BEGINNING DURING 1989..... \$2,000.00.
10 (D) FOR A TAX YEAR BEGINNING AFTER 1989..... \$2,100.00.

11 (3) A single additional exemption of \$1,400.00 for a tax
12 year beginning during 1987, \$1,200.00 for a tax year beginning
13 during 1988, \$1,000.00 for a tax year beginning during 1989, and
14 \$900.00 for a tax year beginning after 1989 is allowed for each
15 of the following:

16 (a) The taxpayer is a paraplegic, a quadriplegic, a hemiple-
17 gic, a person who is blind as defined in section 504, or a
18 totally and permanently disabled person as defined in section
19 522.

20 (b) The taxpayer is a deaf person as defined in section 2 of
21 the deaf persons' interpreters act, Act No. 204 of the Public
22 Acts of 1982, being section 393.502 of the Michigan Compiled
23 Laws.

24 (c) The taxpayer is ~~a person who is~~ 65 years of age or
25 older.

1 (d) The return includes unemployment compensation that
2 amounts to 50% or more of FEDERAL adjusted gross income.

3 (4) For a tax year beginning after 1987, an individual with
4 respect to whom a deduction under section 151 of the internal
5 revenue code is allowable to another federal taxpayer during the
6 tax year is not considered to have an allowable federal exemption
7 for purposes of subsection (2), but may deduct \$500.00 from tax-
8 able income for a tax year beginning in 1988 and \$1,000.00 for a
9 tax year beginning after 1988.

10 (5) A nonresident or a part-year resident is allowed that
11 proportion of an exemption or deduction allowed under subsection
12 (2), (3), or (4) that the taxpayer's income from Michigan sources
13 bears to the total income from all sources.

14 (6) For a tax year beginning after 1987, in calculating tax-
15 able income, a taxpayer shall not subtract from FEDERAL adjusted
16 gross income the amount of prizes won by the taxpayer under the
17 McCauley-Traxler-Law-Bowman-McNeely lottery act, Act No. 239 of
18 the Public Acts of 1972, being sections 432.1 to 432.47 of the
19 Michigan Compiled Laws.

20 SEC. 57. (1) A TAXPAYER WHO IS AN ACCOUNT HOLDER MAY DEDUCT
21 THE AMOUNT, NOT TO EXCEED \$5,000.00, THAT THE TAXPAYER DEPOSITS
22 DURING THE TAX YEAR IN A HOME PURCHASE ACCOUNT PLUS THE AMOUNT OF
23 INTEREST EARNED BY THAT ACCOUNT FOR THE TAX YEAR. A TAXPAYER
24 FILING A JOINT RETURN MAY DEDUCT NOT MORE THAN \$10,000.00 PLUS
25 THE AMOUNT OF INTEREST EARNED.

26 (2) IF THE ACCOUNT HOLDER APPLIES THE MONEY TO THE
27 FIRST-TIME PURCHASE OF A HOME, MONEY WITHDRAWN FROM A HOME

1 PURCHASE ACCOUNT, WHETHER PRINCIPAL OR INTEREST, IS NOT INCOME
2 AND SHALL NOT BE TAXED UNDER THIS ACT. AT THE TIME THE ACCOUNT
3 HOLDER WITHDRAWS MONEY FROM THE HOME PURCHASE ACCOUNT, THE
4 ACCOUNT HOLDER SHALL SUBMIT SATISFACTORY PROOF TO THE COMMISSION-
5 ER, UPON FORMS PROVIDED BY THE DEPARTMENT, THAT THE MONEY WITH-
6 DRAWN IS USED FOR THE PURCHASE OF A HOME. THE TOTAL AMOUNT ACCU-
7 MULATED IN A HOME PURCHASE ACCOUNT, BOTH PRINCIPAL AND INTEREST,
8 MINUS ANY AMOUNT THAT QUALIFIES FOR EXEMPTION UNDER SUBSECTION
9 (3), SHALL BE CONSIDERED INCOME TO THE ACCOUNT HOLDER IF THE
10 ACCOUNT HOLDER FAILS TO DO ALL OF THE FOLLOWING:

11 (A) APPLY ALL OF THE MONEY DEPOSITED IN THE HOME PURCHASE
12 ACCOUNT TO THE PURCHASE OF A HOME WITHIN 1 YEAR AFTER THE FIRST
13 WITHDRAWAL FROM THE HOME PURCHASE ACCOUNT.

14 (B) USE THE HOME TO WHICH THE MONEY IS APPLIED AS THE
15 ACCOUNT HOLDER'S PRIMARY RESIDENCE FOR NOT LESS THAN 2 YEARS
16 AFTER THE PURCHASE.

17 (C) SUBMIT TO THE COMMISSIONER THE PROOF REQUIRED BY THIS
18 SECTION.

19 (3) IF THE ACCOUNT HOLDER COMPLIES WITH SUBSECTION (2)
20 EXCEPT FOR SUBSECTION (2)(A), MONEY ACTUALLY USED TO PURCHASE THE
21 HOME WITHIN 1 YEAR AFTER THE FIRST WITHDRAWAL IS NOT INCOME AND
22 IS NOT SUBJECT TO THE TAX, INTEREST, OR PENALTY UNDER THIS ACT.

23 (4) IF HOME PURCHASE ACCOUNT MONEY IS REQUIRED TO BE CONSID-
24 ERED INCOME UNDER SUBSECTION (2), THE TAXPAYER SHALL PAY INTEREST
25 ON THE TAX IMPOSED BY THIS ACT ON THAT AMOUNT OF INCOME AT THE
26 RATE PRESCRIBED UNDER SECTION 23 OF ACT NO. 122 OF THE PUBLIC
27 ACTS OF 1941, BEING SECTION 205.23 OF THE MICHIGAN COMPILED LAWS,

1 COMPUTED FROM THE DATE ON WHICH THE INITIAL DEPOSIT IS MADE IN
2 THE HOME PURCHASE ACCOUNT UNTIL THE DATE ON WHICH THE TAX IS
3 PAID. THE TAXPAYER SHALL ALSO PAY A PENALTY ON HOME PURCHASE
4 ACCOUNT MONEY THAT IS REQUIRED TO BE CONSIDERED INCOME UNDER SUB-
5 SECTION (2) EQUAL TO 10% OF THAT AMOUNT OF INCOME. THE COMMIS-
6 SIONER MAY WAIVE THE PENALTY UNDER THIS SECTION IF THE TAXPAYER
7 APPLIES FOR THE WAIVER IN WRITING SHOWING THAT THE PENALTY WOULD
8 CAUSE HARDSHIP OR IS UNEQUITABLE.

9 (5) PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969,
10 ACT NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS 24.201 TO
11 24.328 OF THE MICHIGAN COMPILED LAWS, THE COMMISSIONER SHALL
12 PROMULGATE THE RULES NECESSARY TO IMPLEMENT THIS SECTION. THE
13 COMMISSIONER AND THE FINANCIAL INSTITUTIONS BUREAU OF THE DEPART-
14 MENT OF COMMERCE SHALL COOPERATE IN THE CREATION, SUPERVISION,
15 AND REGULATION OF HOME PURCHASE ACCOUNTS.

16 (6) AS USED IN THIS SECTION:

17 (A) "ACCOUNT HOLDER" MEANS AN INDIVIDUAL, OR A HUSBAND AND
18 WIFE WHO ARE REQUIRED TO FILE A JOINT RETURN UNDER THIS ACT, WHO
19 HAVE NOT PREVIOUSLY OWNED A HOME AND FOR WHOSE BENEFIT A HOME
20 PURCHASE ACCOUNT IS CREATED.

21 (B) "HOME" MEANS A HOUSE, CONDOMINIUM, OR UNIT IN A COOPERA-
22 TIVE HOUSING CORPORATION.

23 (C) "HOME PURCHASE ACCOUNT" MEANS AN ACCOUNT CREATED IN THIS
24 STATE FOR THE EXCLUSIVE BENEFIT OF AN ACCOUNT HOLDER. HOME PUR-
25 CHASE ACCOUNT INCLUDES MONEY INVESTED IN TAX EXEMPT BONDS THE
26 PROCEEDS OF WHICH, BOTH PRINCIPAL AND INTEREST, ARE USED

1 EXCLUSIVELY FOR THE PURCHASE OF A HOME. A HOME PURCHASE ACCOUNT
2 SHALL COMPLY WITH ALL OF THE FOLLOWING:

3 (i) MONEY IN THE ACCOUNT IS NOT INVESTED IN LIFE INSURANCE
4 CONTRACTS.

5 (ii) MONEY IN THE ACCOUNT IS NOT COMMINGLED WITH ANY OTHER
6 MONEY OF THE ACCOUNT HOLDER.

7 (D) "PURCHASE" INCLUDES MONEY USED FOR THE CONSTRUCTION OF A
8 HOME.