

# HOUSE BILL No. 5190

December 17, 2015, Introduced by Reps. Brett Roberts, Lauwers, Glardon, Johnson, Rendon, Victory, Hughes, Jenkins, Garcia, Pagel, Cole, Leutheuser, Barrett, Brunner, Lyons, Vaupel, Kelly, Aaron Miller, Canfield, LaFontaine, Smiley, LaVoy, McBroom, Franz, Outman, Sheppard, Price, Potvin and Lucido and referred to the Committee on Agriculture.

A bill to amend 1967 PA 281, entitled  
"Income tax act of 1967,"  
by amending section 51 (MCL 206.51), as amended by 2015 PA 180, and  
by adding section 312.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

6               (a) On and after October 1, 2007 and before October 1, 2012,  
7       4.35%.

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

3 (c) For each tax year beginning on and after January 1, 2023,  
4 if the percentage increase in the total general fund/general  
5 purpose revenue from the immediately preceding fiscal year is  
6 greater than the inflation rate for the same period and the  
7 inflation rate is positive, then the current rate shall be reduced  
8 by an amount determined by multiplying that rate by a fraction, the  
9 numerator of which is the difference between the total general  
10 fund/general purpose revenue from the immediately preceding state  
11 fiscal year and the capped general fund/general purpose revenue and  
12 the denominator of which is the total revenue collected from this  
13 part in the immediately preceding state fiscal year. For purposes  
14 of this subdivision only, the state treasurer, the director of the  
15 senate fiscal agency, and the director of the house fiscal agency  
16 shall determine whether the total revenue distributed to general  
17 fund/general purpose revenue has increased as required under this  
18 subdivision based on the comprehensive annual financial report  
19 prepared and published by the department of technology, management,  
20 and budget in accordance with section 23 of article IX of the state  
21 constitution of 1963. The state treasurer, the director of the  
22 senate fiscal agency, and the director of the house fiscal agency  
23 shall make the determination under this subdivision no later than  
24 the date of the January 2023 revenue estimating conference  
25 conducted pursuant to sections 367a through 367f of the management  
26 and budget act, 1984 PA 431, MCL 18.1367a to 18.1367f, and the date  
27 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 JANUARY 1, 2017, THE AMOUNT OF REVENUE COLLECTED UNDER THIS SECTION AND IDENTIFIED PURSUANT TO SECTION 312 THAT IS ATTRIBUTABLE TO UNCLAIMED FARMLAND TAX CREDITS UNDER SECTION 36109 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.36109, SHALL BE DEPOSITED INTO THE

1 AGRICULTURAL PRESERVATION FUND CREATED IN SECTION 36202 OF THE  
2 NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451,  
3 MCL 324.36202.

4 (4) ~~(3)~~—The department shall annualize rates provided in  
5 subsection (1) as necessary. The applicable annualized rate shall  
6 be imposed upon the taxable income of every person other than a  
7 corporation for those tax years.

8 (5) ~~(4)~~—The taxable income of a nonresident shall be computed  
9 in the same manner that the taxable income of a resident is  
10 computed, subject to the allocation and apportionment provisions of  
11 this part.

12 (6) ~~(5)~~—A resident beneficiary of a trust whose taxable income  
13 includes all or part of an accumulation distribution by a trust, as  
14 defined in section 665 of the internal revenue code, shall be  
15 allowed a credit against the tax otherwise due under this part. The  
16 credit shall be all or a proportionate part of any tax paid by the  
17 trust under this part for any preceding taxable year that would not  
18 have been payable if the trust had in fact made distribution to its  
19 beneficiaries at the times and in the amounts specified in section  
20 666 of the internal revenue code. The credit shall not reduce the  
21 tax otherwise due from the beneficiary to an amount less than would  
22 have been due if the accumulation distribution were excluded from  
23 taxable income.

24 (7) ~~(6)~~—The taxable income of a resident who is required to  
25 include income from a trust in his or her federal income tax return  
26 under the provisions of 26 USC 671 to 679, shall include items of  
27 income and deductions from the trust in taxable income to the

1 extent required by this part with respect to property owned  
2 outright.

3       (8) ~~(7)~~—It is the intention of this section that the income  
4 subject to tax of every person other than corporations shall be  
5 computed in like manner and be the same as provided in the internal  
6 revenue code subject to adjustments specifically provided for in  
7 this part.

8       (9) ~~(8)~~—As used in this section:

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

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

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

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

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

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

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

26       **SEC. 312. BEGINNING WITH THE 2016 TAX YEAR, BOTH OF THE**  
27 **FOLLOWING APPLY:**

1           (A) THE DEPARTMENT SHALL INCLUDE ON THE FARMLAND PRESERVATION  
2 TAX CREDIT FORM CREATED PURSUANT TO SECTION 36109 OF THE NATURAL  
3 RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL  
4 324.36109, A CHECKBOX FOR THE TAXPAYER TO DESIGNATE WHETHER OR NOT  
5 HE OR SHE IS CLAIMING THE TAX CREDIT FOR THAT TAX YEAR.

6           (B) A TAXPAYER MAY, REGARDLESS OF THE NUMBER OF DEVELOPMENT  
7 RIGHTS AGREEMENTS ENTERED INTO PURSUANT TO PART 361 OF THE NATURAL  
8 RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL  
9 324.36101 TO 324.36117, ELECTRONICALLY FILE A FARMLAND PRESERVATION  
10 TAX CREDIT CLAIM WITH THE TAXPAYER'S ANNUAL RETURN UNDER THIS PART.