

HOUSE BILL No. 5428

January 17, 2018, Introduced by Rep. Kelly and referred to the Committee on Education Reform.

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending sections 30 and 30f (MCL 206.30 and 206.30f), section 30 as amended by 2017 PA 149 and section 30f as amended by 2011 PA 38.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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

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

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

17 (i) Compensation, including retirement or pension benefits,
18 received for services in the ~~armed forces~~ **ARMED FORCES** of the
19 United States.

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

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

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

27 (i) Retirement or pension benefits received from a federal

1 public retirement system or from a public retirement system of or
2 created by this state or a political subdivision of this state.

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

10 (iii) Social ~~security~~**SECURITY** benefits as defined in section
11 86 of the internal revenue code.

12 (iv) Beginning on and after January 1, 2007, retirement or
13 pension benefits not deductible under subparagraph (i) or
14 subdivision (e) from any other retirement or pension system or
15 benefits from a retirement annuity policy in which payments are
16 made for life to a senior citizen, to a maximum of \$42,240.00 for a
17 single return and \$84,480.00 for a joint return. The maximum
18 amounts allowed under this subparagraph shall be reduced by the
19 amount of the deduction for retirement or pension benefits claimed
20 under subparagraph (i) or subdivision (e) and by the amount of a
21 deduction claimed under subdivision (p). For the 2008 tax year and
22 each tax year after 2008, the maximum amounts allowed under this
23 subparagraph shall be adjusted by the percentage increase in the
24 United States ~~consumer price index~~**CONSUMER PRICE INDEX** for the
25 immediately preceding calendar year. The department shall annualize
26 the amounts provided in this subparagraph as necessary. As used in
27 this subparagraph, "senior citizen" means that term as defined in

1 section 514.

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

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

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

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

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

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

16 (ii) The amount of payment made under an advance tuition
17 payment contract as provided in the Michigan education trust act,
18 1986 PA 316, MCL 390.1421 to 390.1442.

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

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

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

1 1986 PA 316, MCL 390.1421 to 390.1442, 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) The purchaser has had his or her offer to enter into an
9 advance tuition payment contract rejected by the board of directors
10 of the Michigan education trust, if the board determines that the
11 trust cannot accept an unlimited number of enrollees upon an
12 actuarially sound basis.

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

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

25 (l) Deduct from the taxable income of a purchaser the amount
26 included as income to the purchaser under the internal revenue code
27 after the advance tuition payment contract entered into under the

1 Michigan education trust act, 1986 PA 316, MCL 390.1421 to
2 390.1442, is terminated because the qualified beneficiary attends
3 an institution of postsecondary education other than either a state
4 institution of higher education or an institution of postsecondary
5 education located outside this state with which a state institution
6 of higher education has reciprocity.

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

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

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

19 (p) Beginning on and after January 1, 2007, subject to any
20 limitation provided in this subdivision, a taxpayer who is a senior
21 citizen may deduct to the extent included in adjusted gross income,
22 interest, dividends, and capital gains received in the tax year not
23 to exceed \$9,420.00 for a single return and \$18,840.00 for a joint
24 return. The maximum amounts allowed under this subdivision shall be
25 reduced by the amount of a deduction claimed for retirement or
26 pension benefits under subdivision (e) or a deduction claimed under
27 subdivision (f) (i), (ii), (iv), or (v). For the 2008 tax year and

1 each tax year after 2008, the maximum amounts allowed under this
2 subdivision shall be adjusted by the percentage increase in the
3 United States ~~consumer price index~~ **CONSUMER PRICE INDEX** for the
4 immediately preceding calendar year. The department shall annualize
5 the amounts provided in this subdivision as necessary. Beginning
6 January 1, 2012, the deduction under this subdivision is not
7 available to a senior citizen born after 1945. As used in this
8 subdivision, "senior citizen" means that term as defined in section
9 514.

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

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

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

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

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

1 (s) Deduct, to the extent included in adjusted gross income,
2 any amount, and any interest earned on that amount, received in the
3 tax year by a taxpayer who is a Holocaust victim as a result of a
4 settlement of claims against any entity or individual for any
5 recovered asset pursuant to the German act regulating unresolved
6 property claims, also known as Gesetz zur Regelung offener
7 Vermögensfragen, as a result of the settlement of the action
8 entitled *In re: Holocaust victim assets litigation*, CV-96-4849, CV-
9 96-5161, and CV-97-0461 (E.D. NY), or as a result of any similar
10 action if the income and interest are not commingled in any way
11 with and are kept separate from all other funds and assets of the
12 taxpayer. As used in this subdivision:

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

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

22 (t) Deduct, to the extent not deducted in determining adjusted
23 gross income, both of the following:

24 (i) Contributions made by the taxpayer in the tax year less
25 qualified withdrawals made in the tax year from education savings
26 accounts, calculated on a per education savings account basis,
27 pursuant to the Michigan education savings program act, **PART 1 OF**

1 2000 PA 161, MCL 390.1471 to 390.1486, not to exceed a total
2 deduction of \$5,000.00 for a single return or \$10,000.00 for a
3 joint return per tax year. The amount calculated under this
4 subparagraph for each education savings account shall not be less
5 than zero.

6 (ii) The amount under section 30f.

7 (u) Add, to the extent not included in adjusted gross income,
8 the amount of money withdrawn by the taxpayer in the tax year from
9 education savings accounts, not to exceed the total amount deducted
10 under subdivision (t) in the tax year and all previous tax years,
11 if the withdrawal was not a qualified withdrawal as provided in the
12 Michigan education savings program act, **PART 1 OF** 2000 PA 161, MCL
13 390.1471 to 390.1486. This subdivision does not apply to
14 withdrawals that are less than the sum of all contributions made to
15 an education savings account in all previous tax years for which no
16 deduction was claimed under subdivision (t), less any contributions
17 for which no deduction was claimed under subdivision (t) that were
18 withdrawn in all previous tax years.

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

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

27 (ii) "Nonbusiness income" means nonbusiness income as defined

1 in section 14 and, to the extent not included in business income,
2 all of the following:

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

5 (B) All interest and passive dividends.

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

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

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

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

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

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

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

24 (J) All gaming winnings.

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

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

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

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

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

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

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

13 (x) For tax years that begin after December 31, 2015, deduct,
14 ~~to the extent not deducted in determining adjusted gross income,~~
15 all of the following:

16 (i) ~~Contributions~~ **TO THE EXTENT NOT DEDUCTED IN DETERMINING**
17 **ADJUSTED GROSS INCOME, CONTRIBUTIONS** made by the taxpayer in the
18 tax year less qualified withdrawals made in the tax year from an
19 ABLE savings account, pursuant to the Michigan ABLE program act,
20 2015 PA 160, MCL 206.981 to 206.997, not to exceed a total
21 deduction of \$5,000.00 for a single return or \$10,000.00 for a
22 joint return per tax year. The amount calculated under this
23 subparagraph for an ABLE savings account shall not be less than
24 zero.

25 (ii) ~~Interest~~ **TO THE EXTENT NOT DEDUCTED IN DETERMINING**
26 **ADJUSTED GROSS INCOME, INTEREST** earned in the tax year on the
27 contributions to the taxpayer's ABLE savings account if the

1 contributions were deductible under subparagraph (i).

2 (iii) ~~Distributions~~ **TO THE EXTENT INCLUDED IN ADJUSTED GROSS**
3 **INCOME, DISTRIBUTIONS** that are qualified withdrawals from an ABLE
4 savings account to the designated beneficiary of that ABLE savings
5 account.

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

18 **(Z) FOR THE 2018 TAX YEAR AND EACH TAX YEAR AFTER 2018, DEDUCT**
19 **ALL OF THE FOLLOWING:**

20 **(i) TO THE EXTENT NOT DEDUCTED IN DETERMINING ADJUSTED GROSS**
21 **INCOME, CONTRIBUTIONS MADE BY THE TAXPAYER IN THE TAX YEAR LESS**
22 **QUALIFIED WITHDRAWALS MADE IN THE TAX YEAR FROM ENHANCED MICHIGAN**
23 **EDUCATION SAVINGS ACCOUNTS, CALCULATED ON A PER ENHANCED MICHIGAN**
24 **EDUCATION SAVINGS ACCOUNT BASIS, PURSUANT TO THE ENHANCED MICHIGAN**
25 **EDUCATION SAVINGS PROGRAM ACT, PART 2 OF 2000 PA 161, MCL 390.1487**
26 **TO 390.1499, NOT TO EXCEED A TOTAL DEDUCTION OF \$5,000.00 FOR A**
27 **SINGLE RETURN OR \$10,000.00 FOR A JOINT RETURN PER TAX YEAR. THE**

1 AMOUNT CALCULATED UNDER THIS SUBPARAGRAPH FOR EACH ENHANCED
2 MICHIGAN EDUCATION SAVINGS ACCOUNT SHALL NOT BE LESS THAN ZERO.

3 (ii) TO THE EXTENT NOT INCLUDED IN DETERMINING ADJUSTED GROSS
4 INCOME, INTEREST EARNED IN THE TAX YEAR ON THE CONTRIBUTIONS TO THE
5 TAXPAYER'S ENHANCED MICHIGAN EDUCATION SAVINGS ACCOUNTS IF THE
6 CONTRIBUTIONS WERE DEDUCTIBLE UNDER SUBPARAGRAPH (i).

7 (iii) TO THE EXTENT INCLUDED IN ADJUSTED GROSS INCOME,
8 DISTRIBUTIONS THAT ARE QUALIFIED WITHDRAWALS FROM AN ENHANCED
9 MICHIGAN EDUCATION SAVINGS ACCOUNT. AS USED IN THIS SUBDIVISION,
10 "QUALIFIED WITHDRAWAL" MEANS THAT TERM AS DEFINED IN THE ENHANCED
11 MICHIGAN EDUCATION SAVINGS PROGRAM ACT, PART 2 OF 2000 PA 161, MCL
12 390.1487 TO 390.1499.

13 (AA) ADD, TO THE EXTENT NOT INCLUDED IN ADJUSTED GROSS INCOME,
14 THE AMOUNT OF MONEY WITHDRAWN BY THE TAXPAYER IN THE TAX YEAR FROM
15 ENHANCED MICHIGAN EDUCATION SAVINGS ACCOUNTS, NOT TO EXCEED THE
16 TOTAL AMOUNT DEDUCTED UNDER SUBDIVISION (Z) IN THE TAX YEAR AND ALL
17 PREVIOUS TAX YEARS, IF THE WITHDRAWAL WAS NOT A QUALIFIED
18 WITHDRAWAL AS PROVIDED IN THE ENHANCED MICHIGAN EDUCATION SAVINGS
19 PROGRAM ACT, PART 2 OF 2000 PA 161, MCL 390.1487 TO 390.1499. THIS
20 SUBDIVISION DOES NOT APPLY TO WITHDRAWALS THAT ARE LESS THAN THE
21 SUM OF ALL CONTRIBUTIONS MADE TO AN ENHANCED MICHIGAN EDUCATION
22 SAVINGS ACCOUNT IN ALL PREVIOUS TAX YEARS FOR WHICH NO DEDUCTION
23 WAS CLAIMED UNDER SUBDIVISION (Z), LESS ANY CONTRIBUTIONS FOR WHICH
24 NO DEDUCTION WAS CLAIMED UNDER SUBDIVISION (Z) THAT WERE WITHDRAWN
25 IN ALL PREVIOUS TAX YEARS.

26 (2) Except as otherwise provided in subsection (7), a personal
27 exemption of \$3,700.00 multiplied by the number of personal or

1 dependency exemptions allowable on the taxpayer's federal income
2 tax return pursuant to the internal revenue code shall be
3 subtracted in the calculation that determines taxable income.

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

8 (a) \$1,800.00 for each taxpayer and every dependent of the
9 taxpayer who is a deaf person as defined in section 2 of the deaf
10 persons' interpreters act, 1982 PA 204, MCL 393.502; a paraplegic,
11 a quadriplegic, or a hemiplegic; a person who is blind as defined
12 in section 504; or a person who is totally and permanently disabled
13 as defined in section 522. When a dependent of a taxpayer files an
14 annual return under this part, the taxpayer or dependent of the
15 taxpayer, but not both, may claim the additional exemption allowed
16 under this subdivision. As used in this subdivision, "dependent"
17 means that term as defined in section 30e.

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

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

26 (ii) "Service-connected disability" means a disability
27 incurred or aggravated in the line of duty in the active military,

1 naval, or air service as described in 38 USC 101(16).

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

6 (4) An individual with respect to whom a deduction under
7 section 151 of the internal revenue code is allowable to another
8 federal taxpayer during the tax year is not considered to have an
9 allowable federal exemption for purposes of subsection (2), but may
10 subtract \$1,500.00 in the calculation that determines taxable
11 income for a tax year.

12 (5) A nonresident or a part-year resident is allowed that
13 proportion of an exemption or deduction allowed under subsection
14 (2), (3), or (4) that the taxpayer's portion of adjusted gross
15 income from Michigan sources bears to the taxpayer's total adjusted
16 gross income.

17 (6) In calculating taxable income, a taxpayer shall not
18 subtract from adjusted gross income the amount of prizes won by the
19 taxpayer under the McCauley-Traxler-Law-Bowman-McNeely lottery act,
20 1972 PA 239, MCL 432.1 to 432.47.

21 (7) For each tax year beginning on and after January 1, 2013,
22 the personal exemption allowed under subsection (2) shall be
23 adjusted by multiplying the exemption for the tax year beginning in
24 2012 by a fraction, the numerator of which is the United States
25 ~~consumer price index~~ **CONSUMER PRICE INDEX** for the state fiscal year
26 ending in the tax year prior to the tax year for which the
27 adjustment is being made and the denominator of which is the United

1 States ~~consumer price index~~ **CONSUMER PRICE INDEX** for the 2010-2011
2 state fiscal year. The resultant product shall be rounded to the
3 nearest \$100.00 increment. As used in this section, "United States
4 ~~consumer price index~~" **CONSUMER PRICE INDEX**" means the United States
5 ~~consumer price index~~ **CONSUMER PRICE INDEX** for all urban consumers
6 as defined and reported by the United States Department of Labor,
7 Bureau of Labor Statistics. For each tax year, the exemptions
8 allowed under subsection (3) shall be adjusted by multiplying the
9 exemption amount under subsection (3) for the tax year by a
10 fraction, the numerator of which is the United States ~~consumer~~
11 ~~price index~~ **CONSUMER PRICE INDEX** for the state fiscal year ending
12 the tax year prior to the tax year for which the adjustment is
13 being made and the denominator of which is the United States
14 ~~consumer price index~~ **CONSUMER PRICE INDEX** for the 1998-1999 state
15 fiscal year. The resultant product shall be rounded to the nearest
16 \$100.00 increment.

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

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

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

24 (ii) Individual retirement accounts that qualify under section
25 408 of the internal revenue code if the distributions are not made
26 until the participant has reached 59-1/2 years of age, except in
27 the case of death, disability, or distributions described by

1 section 72(t) (2) (A) (iv) of the internal revenue code.

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

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

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

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

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

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

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

23 (d) Retirement and pension benefits do not include:

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

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

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

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

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

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

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

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

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

1 is not eligible for the unrestricted deduction of \$20,000.00 for a
2 single return and \$40,000.00 for a joint return under this
3 subdivision.

4 (c) Beginning January 1, 2013 for a person born in 1946
5 through 1952 and beginning January 1, 2018 for a person born after
6 1945 who has retired as of January 1, 2013, if that person receives
7 retirement or pension benefits from employment with a governmental
8 agency that was not covered by the federal social security act,
9 chapter 531, 49 Stat 620, the sum of the deductions under
10 subsection (1)(f)(i), (ii), and (iv) is limited to \$35,000.00 for a
11 single return and, except as otherwise provided under this
12 subdivision, \$55,000.00 for a joint return. If both spouses filing
13 a joint return receive retirement or pension benefits from
14 employment with a governmental agency that was not covered by the
15 federal social security act, chapter 531, 49 Stat 620, the sum of
16 the deductions under subsection (1)(f)(i), (ii), and (iv) is
17 limited to \$70,000.00 for a joint return. After that person reaches
18 the age of 67, the deductions under subsection (1)(f)(i), (ii), and
19 (iv) do not apply and that person is eligible for a deduction of
20 \$35,000.00 for a single return and \$55,000.00 for a joint return,
21 or \$70,000.00 for a joint return if applicable, which deduction is
22 available against all types of income and is not restricted to
23 income from retirement or pension benefits. A person who takes the
24 deduction under subsection (1)(e) is not eligible for the
25 unrestricted deduction of \$35,000.00 for a single return and
26 \$55,000.00 for a joint return, or \$70,000.00 for a joint return if
27 applicable, under this subdivision.

1 (d) Except as otherwise provided under subdivision (c) for a
2 person who was retired as of January 1, 2013, for a person born
3 after 1952 who has reached the age of 62 through 66 years of age
4 and who receives retirement or pension benefits from employment
5 with a governmental agency that was not covered by the federal
6 social security act, chapter 532, 49 Stat 620, the sum of the
7 deductions under subsection (1)(f)(i), (ii), and (iv) is limited to
8 \$15,000.00 for a single return and, except as otherwise provided
9 under this subdivision, \$15,000.00 for a joint return. If both
10 spouses filing a joint return receive retirement or pension
11 benefits from employment with a governmental agency that was not
12 covered by the federal social security act, chapter 532, 49 Stat
13 620, the sum of the deductions under subsection (1)(f)(i), (ii),
14 and (iv) is limited to \$30,000.00 for a joint return.

15 (e) Except as otherwise provided under subdivision (c) or (d),
16 for a person born after 1952, the deduction under subsection
17 (1)(f)(i), (ii), or (iv) does not apply. When that person reaches
18 the age of 67, that person is eligible for a deduction of
19 \$20,000.00 for a single return and \$40,000.00 for a joint return,
20 which deduction is available against all types of income and is not
21 restricted to income from retirement or pension benefits. If a
22 person takes the deduction of \$20,000.00 for a single return and
23 \$40,000.00 for a joint return, that person shall not take the
24 deduction under subsection (1)(f)(iii) and shall not take the
25 personal exemption under subsection (2). That person may elect not
26 to take the deduction of \$20,000.00 for a single return and
27 \$40,000.00 for a joint return and elect to take the deduction under

1 subsection (1) (f) (iii) and the personal exemption under subsection
2 (2) if that election would reduce that person's tax liability. A
3 person who takes the deduction under subsection (1) (e) is not
4 eligible for the unrestricted deduction of \$20,000.00 for a single
5 return and \$40,000.00 for a joint return under this subdivision.

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

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

11 Sec. 30f. For tax years that begin after December 31, 1999,
12 taxable income for purposes of this part equals taxable income as
13 determined under section 30 with the following adjustments:

14 (a) For tax years that begin after December 31, 1999, deduct,
15 to the extent not deducted in determining adjusted gross income,
16 interest earned in the tax year on the contributions to the
17 taxpayer's education savings accounts if the contributions were
18 deductible under section 30(1) (t) (i) .

19 (b) For tax years that begin after December 31, 1999, deduct,
20 to the extent included in adjusted gross income, distributions that
21 are qualified withdrawals from an education savings account to the
22 designated beneficiary of that education savings account. As used
23 in this subdivision, "qualified withdrawal" means that term as
24 defined in the Michigan education savings program act, **PART 1 OF**
25 2000 PA 161, MCL 390.1471 to 390.1486.

26 Enacting section 1. This amendatory act does not take effect
27 unless Senate Bill No. 544 of the 99th Legislature is enacted into

1 law.