

HOUSE BILL NO. 5838

February 23, 2022, Introduced by Reps. Hall and Albert and referred to the Committee on Tax Policy.

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending sections 30 and 51 (MCL 206.30 and 206.51), section 30 as amended by 2022 PA 5 and section 51 as amended by 2020 PA 75.

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

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

5 (b) Add taxes on or measured by income to the extent the taxes
6 have been deducted in arriving at adjusted gross income including
7 any direct or indirect allocated share of taxes paid by a flow-
8 through entity under part 4.

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

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

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

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

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

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

29 (f) Deduct the following to the extent included in adjusted

1 gross income subject to the limitations and restrictions set forth
2 in ~~subsection~~**subsections (9) and (10), as applicable:**

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

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

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

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

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

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

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

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

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

11 (i) The amount of a charitable contribution made to the advance
12 tuition payment fund created under section 9 of the Michigan
13 education trust act, 1986 PA 316, MCL 390.1429.

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

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

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

23 (B) The contract applies only for a state institution of
24 higher education as defined in the Michigan education trust act,
25 1986 PA 316, MCL 390.1421 to 390.1442, or a community or junior
26 college in Michigan.

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

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

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

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

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

20 (l) Deduct from the taxable income of a purchaser the amount
21 included as income to the purchaser under the internal revenue code
22 after the advance tuition payment contract entered into under the
23 Michigan education trust act, 1986 PA 316, MCL 390.1421 to
24 390.1442, is terminated because the qualified beneficiary attends
25 an institution of postsecondary education other than either a state
26 institution of higher education or an institution of postsecondary
27 education located outside this state with which a state institution
28 of higher education has reciprocity.

29 (m) Add, to the extent deducted in determining adjusted gross

1 income, the net operating loss deduction under section 172 of the
2 internal revenue code.

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

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

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

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

1 (i) The amount of a refund received in the tax year based on
2 taxes paid under this part and any direct or indirect allocated
3 share of a refund received by a flow-through entity under part 4.

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

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

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

18 (s) Deduct, to the extent included in adjusted gross income,
19 any amount, and any interest earned on that amount, received in the
20 tax year by a taxpayer who is a Holocaust victim as a result of a
21 settlement of claims against any entity or individual for any
22 recovered asset pursuant to the German act regulating unresolved
23 property claims, also known as Gesetz zur Regelung offener
24 Vermögensfragen, as a result of the settlement of the action
25 entitled *In re: Holocaust victim assets litigation*, CV-96-4849, CV-
26 96-5161, and CV-97-0461 (E.D. NY), or as a result of any similar
27 action if the income and interest are not commingled in any way
28 with and are kept separate from all other funds and assets of the
29 taxpayer. As used in this subdivision:

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

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

10 (t) Deduct all of the following:

11 (i) To the extent not deducted in determining adjusted gross
12 income, contributions made by the taxpayer in the tax year less
13 qualified withdrawals made in the tax year from education savings
14 accounts, calculated on a per education savings account basis,
15 pursuant to the Michigan education savings program act, 2000 PA
16 161, MCL 390.1471 to 390.1486, not to exceed a total deduction of
17 \$5,000.00 for a single return or \$10,000.00 for a joint return per
18 tax year. The amount calculated under this subparagraph for each
19 education savings account shall not be less than zero.

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

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

28 (u) Add, to the extent not included in adjusted gross income,
29 the amount of money withdrawn by the taxpayer in the tax year from

1 education savings accounts, not to exceed the total amount deducted
2 under subdivision (t) in the tax year and all previous tax years,
3 if the withdrawal was not a qualified withdrawal as provided in the
4 Michigan education savings program act, 2000 PA 161, MCL 390.1471
5 to 390.1486. This subdivision does not apply to withdrawals that
6 are less than the sum of all contributions made to an education
7 savings account in all previous tax years for which no deduction
8 was claimed under subdivision (t), less any contributions for which
9 no deduction was claimed under subdivision (t) that were withdrawn
10 in all previous tax years.

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

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

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

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

24 (B) All interest and passive dividends.

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

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

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

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

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

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

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

14 (J) All gaming winnings.

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

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

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

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

24 (w) Eliminate all of the following:

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

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

29 (x) Deduct all of the following:

1 (i) To the extent not deducted in determining adjusted gross
2 income, contributions made by the taxpayer in the tax year less
3 qualified withdrawals made in the tax year from an ABLE savings
4 account, pursuant to the Michigan achieving a better life
5 experience (ABLE) program act, 2015 PA 160, MCL 206.981 to 206.997,
6 not to exceed a total deduction of \$5,000.00 for a single return or
7 \$10,000.00 for a joint return per tax year. The amount calculated
8 under this subparagraph for an ABLE savings account shall not be
9 less than zero.

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

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

17 (y) Add, to the extent not included in adjusted gross income,
18 the amount of money withdrawn by the taxpayer in the tax year from
19 an ABLE savings account, not to exceed the total amount deducted
20 under subdivision (x) in the tax year and all previous tax years,
21 if the withdrawal was not a qualified withdrawal as provided in the
22 Michigan achieving a better life experience (ABLE) program act,
23 2015 PA 160, MCL 206.981 to 206.997. This subdivision does not
24 apply to withdrawals that are less than the sum of all
25 contributions made to an ABLE savings account in all previous tax
26 years for which no deduction was claimed under subdivision (x),
27 less any contributions for which no deduction was claimed under
28 subdivision (x) that were withdrawn in all previous tax years.

29 (z) For tax years that begin after December 31, 2018, deduct,

1 to the extent included in adjusted gross income, compensation
2 received in the tax year pursuant to the wrongful imprisonment
3 compensation act, 2016 PA 343, MCL 691.1751 to 691.1757.

4 (aa) For the 2016, 2017, 2018, and 2019 tax years and for each
5 tax year that begins on and after January 1, 2025, a taxpayer who
6 is a disabled veteran may deduct, to the extent included in
7 adjusted gross income, income reported on a federal income tax form
8 1099-C that is attributable to the cancellation or discharge of a
9 student loan by the United States Department of Education pursuant
10 to the total and permanent disability discharge program, 34 CFR
11 685.213. As used in this subdivision, "disabled veteran" means an
12 individual who meets either of the following criteria:

13 (i) Has been determined by the United States Department of
14 Veterans Affairs to be permanently and totally disabled as a result
15 of military service and entitled to veterans' benefits at the 100%
16 rate.

17 (ii) Has been rated by the United States Department of Veterans
18 Affairs as individually unemployable.

19 (bb) For tax years that begin on and after January 1, 2021,
20 and subject to the limitation under this subdivision, deduct, to
21 the extent not deducted in determining adjusted gross income,
22 wagering losses deducted under section 165(d) of the internal
23 revenue code on the taxpayer's federal income tax return for the
24 same tax year. For a nonresident, only wagering losses that are
25 attributable to wagering transactions placed at or through a casino
26 or licensed race meeting located in this state may be deducted and
27 must not exceed the gains on wagering transactions allocated to
28 this state under section 110(2)(d). As used in this subdivision,
29 "casino" and "licensed race meeting" mean those terms as defined in

1 section 110.

2 (cc) Except as otherwise provided under subparagraph (i), for
3 tax years that begin on and after January 1, 2022, deduct all of
4 the following:

5 (i) To the extent not deducted in determining adjusted gross
6 income, contributions made by the taxpayer in the tax year less
7 qualified withdrawals made in the tax year from a first-time home
8 buyer savings account, pursuant to the Michigan first-time home
9 buyer savings program act, not to exceed a total deduction of
10 \$5,000.00 for a single return or \$10,000.00 for a joint return per
11 tax year. The amount calculated under this subparagraph for a
12 first-time home buyer savings account shall not be less than zero.
13 The deduction under this subparagraph does not apply for tax years
14 that begin after December 31, 2026.

15 (ii) To the extent not deducted in determining adjusted gross
16 income, interest earned in the tax year on the contributions to the
17 taxpayer's first-time home buyer savings account.

18 (iii) To the extent included in adjusted gross income,
19 distributions that are qualified withdrawals from a first-time home
20 buyer savings account to the qualified beneficiary of that savings
21 account.

22 (dd) For tax years that begin on and after January 1, 2022,
23 add, to the extent not included in adjusted gross income, the
24 amount of money withdrawn by the taxpayer in the tax year from a
25 first-time home buyer savings account, not to exceed the total
26 amount deducted under subdivision (cc) in the tax year and all
27 previous tax years, if the withdrawal was not a qualified
28 withdrawal as provided in the Michigan first-time home buyer
29 savings program act. This subdivision does not apply to withdrawals

1 that are less than the sum of all contributions made to a first-
2 time home buyer savings account in all previous tax years for which
3 no deduction was claimed under subdivision (cc), less any
4 contributions for which no deduction was claimed under subdivision
5 (cc) that were withdrawn in all previous tax years.

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

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

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

19 (c) For tax years beginning on and after January 1, 2019, a
20 taxpayer may claim an additional exemption under this subsection in
21 the tax year for which the taxpayer has a certificate of stillbirth
22 from the department of health and human services as provided under
23 section 2834 of the public health code, 1978 PA 368, MCL 333.2834.

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

28 (a) \$1,800.00 for each taxpayer and every dependent of the
29 taxpayer who is a deaf person as defined in section 2 of the deaf

1 persons' interpreters act, 1982 PA 204, MCL 393.502; a paraplegic,
2 a quadriplegic, or a hemiplegic; a person who is blind as defined
3 in section 504; or a person who is totally and permanently disabled
4 as defined in section 522. When a dependent of a taxpayer files an
5 annual return under this part, the taxpayer or dependent of the
6 taxpayer, but not both, may claim the additional exemption allowed
7 under this subdivision.

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

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

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

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

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

28 (5) A nonresident or a part-year resident is allowed that
29 proportion of an exemption or deduction allowed under subsection

1 (2), (3), or (4) that the taxpayer's portion of adjusted gross
2 income from Michigan sources bears to the taxpayer's total adjusted
3 gross income.

4 (6) In calculating taxable income, a taxpayer shall not
5 subtract from adjusted gross income the amount of prizes won by the
6 taxpayer under the McCauley-Traxler-Law-Bowman-McNeely lottery act,
7 1972 PA 239, MCL 432.1 to 432.47.

8 (7) For each tax year beginning on and after January 1, 2013,
9 the personal exemption allowed under subsection (2) shall be
10 adjusted by multiplying the exemption for the tax year beginning in
11 2012 by a fraction, the numerator of which is the United States
12 Consumer Price Index for the state fiscal year ending in the tax
13 year prior to the tax year for which the adjustment is being made
14 and the denominator of which is the United States Consumer Price
15 Index for the 2010-2011 state fiscal year. For the 2022 tax year
16 and each tax year after 2022, the adjusted amount determined under
17 this subsection shall be increased by an additional \$600.00. The
18 resultant product shall be rounded to the nearest \$100.00
19 increment. For each tax year, the exemptions allowed under
20 subsection (3) shall be adjusted by multiplying the exemption
21 amount under subsection (3) for the tax year by a fraction, the
22 numerator of which is the United States Consumer Price Index for
23 the state fiscal year ending the tax year prior to the tax year for
24 which the adjustment is being made and the denominator of which is
25 the United States Consumer Price Index for the 1998-1999 state
26 fiscal year. The resultant product shall be rounded to the nearest
27 \$100.00 increment.

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

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

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

6 (ii) Individual retirement accounts that qualify under section
7 408 of the internal revenue code if the distributions are not made
8 until the participant has reached 59-1/2 years of age, except in
9 the case of death, disability, or distributions described by
10 section 72(t)(2)(A)(iv) of the internal revenue code.

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

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

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

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

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

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

28 (c) Retirement or pension benefits received by a surviving
29 spouse if those benefits qualified for a deduction prior to the

1 decedent's death. Benefits received by a surviving child are not
2 deductible.

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

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

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

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

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

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

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

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

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

25 (b) ~~Except as otherwise provided in subdivision (c), for a~~
26 ~~person born in 1946 through 1952, the sum of the deductions under~~
27 ~~subsection (1) (f) (i), (ii), and (iv) is limited to \$20,000.00 for a~~
28 ~~single return and \$40,000.00 for a joint return. After that person~~
29 ~~reaches the age of 67, **Except as otherwise provided in subdivision**~~

1 (c) or (d), for a person born after 1945, the deductions under
2 subsection (1)(f)(i), (ii), and (iv) do not apply. ~~and~~ Through
3 December 31, 2021, when that person reaches the age of 67, and
4 beginning on and after January 1, 2022, when that person reaches
5 the age of 62, that person is eligible for a deduction of
6 \$20,000.00 for a single return and \$40,000.00 for a joint return,
7 which deduction is available against all types of income and is not
8 restricted to income from retirement or pension benefits. A person
9 who takes the deduction under subsection (1)(e) is not eligible for
10 the unrestricted deduction of \$20,000.00 for a single return and
11 \$40,000.00 for a joint return under this subdivision.

12 (c) Beginning January 1, 2013 for a person born in 1946
13 through 1952 and beginning January 1, 2018 for a person born after
14 1945 who has retired as of January 1, 2013, if that person receives
15 retirement or pension benefits from employment with a governmental
16 agency that was not covered by the federal social security act,
17 chapter 531, 49 Stat 620, the sum of the deductions under
18 subsection (1)(f)(i), (ii), and (iv) is limited to \$35,000.00 for a
19 single return and, except as otherwise provided under this
20 subdivision, \$55,000.00 for a joint return. If both spouses filing
21 a joint return receive retirement or pension benefits from
22 employment with a governmental agency that was not covered by the
23 federal social security act, chapter 531, 49 Stat 620, the sum of
24 the deductions under subsection (1)(f)(i), (ii), and (iv) is limited
25 to \$70,000.00 for a joint return. After that person reaches the age
26 of 67, the deductions under subsection (1)(f)(i), (ii), and (iv) do
27 not apply and that person is eligible for a deduction of \$35,000.00
28 for a single return and \$55,000.00 for a joint return, or
29 \$70,000.00 for a joint return if applicable, which deduction is

1 available against all types of income and is not restricted to
2 income from retirement or pension benefits. A person who takes the
3 deduction under subsection (1)(e) is not eligible for the
4 unrestricted deduction of \$35,000.00 for a single return and
5 \$55,000.00 for a joint return, or \$70,000.00 for a joint return if
6 applicable, under this subdivision.

7 (d) Except as otherwise provided under subdivision (c) for a
8 person who was retired as of January 1, 2013, for a person born
9 after 1952 who has reached the age of 62 through 66 years of age
10 and who receives retirement or pension benefits from employment
11 with a governmental agency that was not covered by the federal
12 social security act, chapter 531, 49 Stat 620, the sum of the
13 deductions under subsection (1)(f)(i), (ii), and (iv) is limited to
14 \$15,000.00 for a single return and, except as otherwise provided
15 under this subdivision, \$15,000.00 for a joint return. If both
16 spouses filing a joint return receive retirement or pension
17 benefits from employment with a governmental agency that was not
18 covered by the federal social security act, chapter 531, 49 Stat
19 620, the sum of the deductions under subsection (1)(f)(i), (ii), and
20 (iv) is limited to \$30,000.00 for a joint return.

21 ~~(e) Except as otherwise provided under subdivision (c) or (d),~~
22 ~~for a person born after 1952, the deduction under subsection~~
23 ~~(1)(f)(i), (ii), or (iv) does not apply. When that person reaches the~~
24 ~~age of 67, that person is eligible for a deduction of \$20,000.00~~
25 ~~for a single return and \$40,000.00 for a joint return, which~~
26 ~~deduction is available against all types of income and is not~~
27 ~~restricted to income from retirement or pension benefits. If a~~
28 ~~person takes the deduction of \$20,000.00 for a single return and~~
29 ~~\$40,000.00 for a joint return, that person shall not take the~~

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

10 **(e)** ~~(f)~~ For a joint return, the limitations and restrictions
11 in this subsection shall be applied based on the date of birth of
12 the older spouse filing the joint return. If a deduction under
13 subsection (1) (f) was claimed on a joint return for a tax year in
14 which a spouse died and the surviving spouse has not remarried
15 since the death of that spouse, the surviving spouse is entitled to
16 claim the deduction under subsection (1) (f) in subsequent tax years
17 subject to the same restrictions and limitations, for a single
18 return, that would have applied based on the date of birth of the
19 older of the 2 spouses. For tax years beginning after December 31,
20 2019 **and before January 1, 2022**, a surviving spouse born after 1945
21 who has reached the age of 67 and has not remarried since the death
22 of that spouse may elect to take the deduction that is available
23 against all types of income subject to the same limitations and
24 restrictions as provided under this subsection based on the
25 surviving spouse's date of birth instead of taking the deduction
26 allowed under subsection (1) (f), for a single return, based on the
27 date of birth of the older spouse. **For tax years beginning after**
28 **December 31, 2022, a surviving spouse born after 1945 who has**
29 **reached the age of 62 and has not remarried since the death of that**

1 spouse may elect to take the deduction that is available against
2 all types of income subject to the same limitations and
3 restrictions as provided under this subsection based on the
4 surviving spouse's date of birth instead of taking the deduction
5 allowed under subsection (1) (f) , for a single return, based on the
6 date of birth of the older spouse.

7 (10) In determining taxable income under this section, a
8 person who elects to take the unrestricted deduction allowed under
9 subsection (9) and after that unrestricted deduction still has
10 income from retirement or pension benefits that the taxpayer would
11 be allowed to deduct for the tax year under subsection (1) (f) (i) ,
12 (ii) , or (iv) if the taxpayer's retirement or pension benefits were
13 not subject to the limitations and restrictions of subsection (9) ,
14 that taxpayer may take an additional restricted deduction of those
15 retirement or pension benefits to a maximum of \$20,000.00 for a
16 single return and \$40,000.00 for a joint return.

17 (11) ~~(10)~~As used in this section:

18 (a) "Oil and gas" means oil and gas subject to severance tax
19 under 1929 PA 48, MCL 205.301 to 205.317.

20 (b) "Senior citizen" means that term as defined in section
21 514.

22 (c) "United States Consumer Price Index" means the United
23 States Consumer Price Index for all urban consumers as defined and
24 reported by the United States Department of Labor, Bureau of Labor
25 Statistics.

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

1 circumstances:

2 (a) On and after October 1, 2007 and before October 1, 2012,
3 4.35%.

4 ~~(b) Except as otherwise provided under subdivision (c), on~~ **On**
5 and after October 1, 2012 **through December 31, 2021**, 4.25%.

6 **(c) Except as otherwise provided under subdivision (d), on and**
7 **after January 1, 2022, 3.9%.**

8 ~~(d) (e)~~For each tax year beginning on and after January 1,
9 2023, if the percentage increase in the total general fund/general
10 purpose revenue from the immediately preceding fiscal year is
11 greater than the inflation rate for the same period and the
12 inflation rate is positive, then the current rate shall be reduced
13 by an amount determined by multiplying that rate by a fraction, the
14 numerator of which is the difference between the total general
15 fund/general purpose revenue from the immediately preceding state
16 fiscal year and the capped general fund/general purpose revenue and
17 the denominator of which is the total revenue collected from this
18 part in the immediately preceding state fiscal year. For purposes
19 of this subdivision only, the state treasurer, the director of the
20 senate fiscal agency, and the director of the house fiscal agency
21 shall determine whether the total revenue distributed to general
22 fund/general purpose revenue has increased as required under this
23 subdivision based on the comprehensive annual financial report
24 prepared and published by the department of technology, management,
25 and budget in accordance with section 23 of article IX of the state
26 constitution of 1963. The state treasurer, the director of the
27 senate fiscal agency, and the director of the house fiscal agency
28 shall make the determination under this subdivision no later than
29 the date of the January 2023 revenue estimating conference

1 conducted pursuant to sections 367a through 367f of the management
2 and budget act, 1984 PA 431, MCL 18.1367a to 18.1367f, and the date
3 of each January revenue estimating conference conducted each year
4 thereafter. As used in this subdivision:

5 (i) "Capped general fund/general purpose revenue" means the
6 total general fund/general purpose revenue from the 2020-2021 state
7 fiscal year multiplied by the sum of 1 plus the product of 1.425
8 times the difference between a fraction, the numerator of which is
9 the Consumer Price Index for the state fiscal year ending in the
10 tax year prior to the tax year for which the adjustment is being
11 made and the denominator of which is the Consumer Price Index for
12 the 2020-2021 state fiscal year, and 1.

13 (ii) "Total general fund/general purpose revenue" means the
14 total general fund/general purpose revenue and other financing
15 sources as published in the comprehensive annual financial report
16 schedule of revenue and other financing sources - general fund for
17 that fiscal year plus any distribution made pursuant to section
18 51d.

19 (2) Except as otherwise provided for December 1, 2018 through
20 September 30, 2019, beginning January 1, 2000, that percentage of
21 the gross collections before refunds from the tax levied under this
22 section that is equal to 1.012% divided by the income tax rate
23 levied under this section shall be deposited in the state school
24 aid fund created in section 11 of article IX of the state
25 constitution of 1963. For December 1, 2018 through September 30,
26 2019 only, that percentage of the gross collections before refunds
27 from the tax levied under this section that is equal to 0.954%
28 divided by the income tax rate levied under this section shall be
29 deposited in the state school aid fund created in section 11 of

1 article IX of the state constitution of 1963.

2 (3) In addition to the distributions under subsections (2) and
3 (4) and sections 51d, 51e, and 51f, beginning October 1, 2016, from
4 the revenue collected under this section an amount equal to 3.5% of
5 the average amount of farmland tax credits claimed under section
6 36109 of the natural resources and environmental protection act,
7 1994 PA 451, MCL 324.36109, for the immediately preceding 3 state
8 fiscal years shall be deposited into the agricultural preservation
9 fund created in section 36202 of the natural resources and
10 environmental protection act, 1994 PA 451, MCL 324.36202.

11 (4) In addition to the distributions under subsections (2) and
12 (3) and sections 51d, 51e, and 51f, and subject to the limitation
13 under this subsection, beginning with the 2018-2019 state fiscal
14 year and each fiscal year thereafter, from the revenue collected
15 under this section \$69,000,000.00 shall be deposited into the renew
16 Michigan fund created in section 51g. However, if, in any 1 of the
17 2018-2019 through the 2021-2022 state fiscal years, the minimum
18 foundation allowance falls below the 2017-2018 minimum foundation
19 allowance established under section 20 of the state school aid act
20 of 1979, 1979 PA 94, MCL 388.1620, as amended by 2017 PA 108, then
21 no money shall be deposited into the renew Michigan fund pursuant
22 to this subsection for that fiscal year.

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

27 (6) The taxable income of a nonresident shall be computed in
28 the same manner that the taxable income of a resident is computed,
29 subject to the allocation and apportionment provisions of this

1 part.

2 (7) A resident beneficiary of a trust whose taxable income
3 includes all or part of an accumulation distribution by a trust, as
4 defined in section 665 of the internal revenue code, shall be
5 allowed a credit against the tax otherwise due under this part. The
6 credit shall be all or a proportionate part of any tax paid by the
7 trust under this part for any preceding taxable year that would not
8 have been payable if the trust had in fact made distribution to its
9 beneficiaries at the times and in the amounts specified in section
10 666 of the internal revenue code. The credit shall not reduce the
11 tax otherwise due from the beneficiary to an amount less than would
12 have been due if the accumulation distribution were excluded from
13 taxable income.

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

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

25 (10) As used in this section:

26 (a) "Consumer Price Index" means the United States Consumer
27 Price Index for all urban consumers as defined and reported by the
28 United States Department of Labor, Bureau of Labor Statistics.

29 (b) "Inflation rate" means the annual percentage change in the

1 Consumer Price Index, as determined by the department, comparing
2 the 2 most recent completed state fiscal years.

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

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

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

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

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