

HOUSE BILL NO. 6413

September 22, 2022, Introduced by Rep. Hoytenga 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, 701, and 703 (MCL 206.30, 206.701, and 206.703), section 30 as amended by 2022 PA 5, section 701 as amended by 2022 PA 148, and section 703 as amended by 2016 PA 158.

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

1 under this section:

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

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

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

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

23 (e) Deduct, to the extent included in adjusted gross income,
24 the following:

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

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

29 (iii) Beginning January 1, 2012, retirement or pension benefits

1 received for services in the Michigan National Guard.

2 (f) Deduct the following to the extent included in adjusted
3 gross income subject to the limitations and restrictions set forth
4 in subsection (9):

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

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

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

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

1 calendar year. The department shall annualize the amounts provided
2 in this subparagraph as necessary.

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

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

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

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

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

13 (i) The amount of a charitable contribution made to the advance
14 tuition payment fund created under section 9 of the Michigan
15 education 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 private
20 sector investment manager that meets all of the following 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 (ii).

25 (B) The contract applies only for a state institution of
26 higher education as defined in the Michigan education trust act,
27 1986 PA 316, MCL 390.1421 to 390.1442, or a community or junior
28 college in Michigan.

29 (C) The contract provides for enrollment by the contract's

1 qualified beneficiary in not less than 4 years after the date on
2 which the contract is entered into.

3 (D) The contract is entered into after either of the
4 following:

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

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

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

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

1 of higher education has reciprocity.

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

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

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

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

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

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

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

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

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

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

1 with and are kept separate from all other funds and assets of the
2 taxpayer. As used in this subdivision:

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

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

12 (t) Deduct all of the following:

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

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

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

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

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

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

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

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

26 (B) All interest and passive dividends.

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

29 (D) All rents and royalties derived from tangible personal

1 property, to the extent the personal property is utilized within
2 the agreement area.

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

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

8 (G) Capital gains from the sale or exchange of intangible
9 personal property.

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

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

16 (J) All gaming winnings.

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

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

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

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

26 (w) Eliminate all of the following:

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

29 (ii) Expenses of producing oil and gas to the extent deducted

1 in arriving at adjusted gross income.

2 (x) Deduct all of the following:

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

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

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

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

1 subdivision (x) that were withdrawn in all previous tax years.

2 (z) For tax years that begin after December 31, 2018, deduct,
3 to the extent included in adjusted gross income, compensation
4 received in the tax year pursuant to the wrongful imprisonment
5 compensation act, 2016 PA 343, MCL 691.1751 to 691.1757.

6 (aa) For the 2016, 2017, 2018, and 2019 tax years and for each
7 tax year that begins on and after January 1, 2025, a taxpayer who
8 is a disabled veteran may deduct, to the extent included in
9 adjusted gross income, income reported on a federal income tax form
10 1099-C that is attributable to the cancellation or discharge of a
11 student loan by the United States Department of Education pursuant
12 to the total and permanent disability discharge program, 34 CFR
13 685.213. As used in this subdivision, "disabled veteran" means an
14 individual who meets either of the following criteria:

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

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

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

1 this state under section 110(2)(d). As used in this subdivision,
2 "casino" and "licensed race meeting" mean those terms as defined in
3 section 110.

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

7 (i) To the extent not deducted in determining adjusted gross
8 income, contributions made by the taxpayer in the tax year less
9 qualified withdrawals made in the tax year from a first-time home
10 buyer savings account, pursuant to the Michigan first-time home
11 buyer savings program act, **2022 PA 6, MCL 565.1001 to 565.1013**, not
12 to exceed a total deduction of \$5,000.00 for a single return or
13 \$10,000.00 for a joint return per tax year. The amount calculated
14 under this subparagraph for a first-time home buyer savings account
15 shall not be less than zero. The deduction under this subparagraph
16 does not apply for tax years that begin after December 31, 2026.

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

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

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

1 withdrawal as provided in the Michigan first-time home buyer
2 savings program act, **2022 PA 6, MCL 565.1001 to 565.1013**. This
3 subdivision does not apply to withdrawals that are less than the
4 sum of all contributions made to a first-time home buyer savings
5 account in all previous tax years for which no deduction was
6 claimed under subdivision (cc), less any contributions for which no
7 deduction was claimed under subdivision (cc) that were withdrawn in
8 all previous tax years.

9 **(ee) For tax years beginning on and after January 1, 2023,**
10 **deduct, to the extent included in adjusted gross income, overtime**
11 **compensation received by the taxpayer during the tax year that was**
12 **required to be paid by the employer under section 4a of the**
13 **improved workforce opportunity wage act, 2018 PA 337, MCL 408.934a.**

14 (2) Except as otherwise provided in subsection (7) and section
15 30a, a personal exemption of \$3,700.00 multiplied by the number of
16 personal and dependency exemptions shall be subtracted in the
17 calculation that determines taxable income. The number of personal
18 and dependency exemptions allowed shall be determined as follows:

19 (a) Each taxpayer may claim 1 personal exemption. However, if
20 a joint return is not made by the taxpayer and his or her spouse,
21 the taxpayer may claim a personal exemption for the spouse if the
22 spouse, for the calendar year in which the taxable year of the
23 taxpayer begins, does not have any gross income and is not the
24 dependent of another taxpayer.

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

27 (c) For tax years beginning on and after January 1, 2019, a
28 taxpayer may claim an additional exemption under this subsection in
29 the tax year for which the taxpayer has a certificate of stillbirth

1 from the department of health and human services as provided under
2 section 2834 of the public health code, 1978 PA 368, MCL 333.2834.

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

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

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

22 (i) "Qualified disabled veteran" means a veteran with a
23 service-connected disability.

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

27 (iii) "Veteran" means a person who served in the active
28 military, naval, marine, coast guard, or air service and who was
29 discharged or released from his or her service with an honorable or

1 general discharge.

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

7 (5) A nonresident or a part-year resident is allowed that
8 proportion of an exemption or deduction allowed under subsection
9 (2), (3), or (4) that the taxpayer's portion of adjusted gross
10 income from Michigan sources bears to the taxpayer's total adjusted
11 gross income.

12 (6) In calculating taxable income, a taxpayer shall not
13 subtract from adjusted gross income the amount of prizes won by the
14 taxpayer under the McCauley-Traxler-Law-Bowman-McNeely lottery act,
15 1972 PA 239, MCL 432.1 to 432.47.

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

1 numerator of which is the United States Consumer Price Index for
2 the state fiscal year ending the tax year prior to the tax year for
3 which the adjustment is being made and the denominator of which is
4 the United States Consumer Price Index for the 1998-1999 state
5 fiscal year. The resultant product shall be rounded to the nearest
6 \$100.00 increment.

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

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

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

14 (ii) Individual retirement accounts that qualify under section
15 408 of the internal revenue code if the distributions are not made
16 until the participant has reached 59-1/2 years of age, except in
17 the case of death, disability, or distributions described by
18 section 72(t)(2)(A)(iv) of the internal revenue code.

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

23 (iv) Distributions from a 401(k) plan attributable to employee
24 contributions mandated by the plan or attributable to employer
25 contributions.

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

28 (i) Plans of the United States, state governments other than
29 this state, and political subdivisions, agencies, or

1 instrumentalities of this state.

2 (ii) Plans maintained by a church or a convention or
3 association of churches.

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

7 (c) Retirement or pension benefits received by a surviving
8 spouse if those benefits qualified for a deduction prior to the
9 decedent's death. Benefits received by a surviving child are not
10 deductible.

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

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

16 (A) Deferred compensation plans under section 457 of the
17 internal revenue code.

18 (B) Distributions from plans under section 401(k) of the
19 internal revenue code other than plans described in subdivision
20 (a) (iv) .

21 (C) Distributions from plans under section 403(b) of the
22 internal revenue code other than plans described in subdivision
23 (a) (iii) .

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

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

29 (9) In determining taxable income under this section, the

1 following limitations and restrictions apply:

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

4 (b) Except as otherwise provided in subdivision (c), for a
5 person born in 1946 through 1952, the sum of the deductions under
6 subsection (1) (f) (i), (ii), and (iv) is limited to \$20,000.00 for a
7 single return and \$40,000.00 for a joint return. After that person
8 reaches the age of 67, the deductions under subsection (1) (f) (i),
9 (ii), and (iv) do not apply and that person is eligible for a
10 deduction of \$20,000.00 for a single return and \$40,000.00 for a
11 joint return, which deduction is available against all types of
12 income and is not restricted to income from retirement or pension
13 benefits. A person who takes the deduction under subsection (1) (e)
14 is not eligible for the unrestricted deduction of \$20,000.00 for a
15 single return and \$40,000.00 for a joint return under this
16 subdivision.

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

1 to \$70,000.00 for a joint return. After that person reaches the age
2 of 67, the deductions under subsection (1) (f) (i), (ii), and (iv) do
3 not apply and that person is eligible for a deduction of \$35,000.00
4 for a single return and \$55,000.00 for a joint return, or
5 \$70,000.00 for a joint return if applicable, which deduction is
6 available against all types of income and is not restricted to
7 income from retirement or pension benefits. A person who takes the
8 deduction under subsection (1) (e) is not eligible for the
9 unrestricted deduction of \$35,000.00 for a single return and
10 \$55,000.00 for a joint return, or \$70,000.00 for a joint return if
11 applicable, under this subdivision.

12 (d) Except as otherwise provided under subdivision (c) for a
13 person who was retired as of January 1, 2013, for a person born
14 after 1952 who has reached the age of 62 through 66 years of age
15 and who receives retirement or pension benefits from employment
16 with a governmental agency that was not covered by the federal
17 social security act, chapter 531, 49 Stat 620, the sum of the
18 deductions under subsection (1) (f) (i), (ii), and (iv) is limited to
19 \$15,000.00 for a single return and, except as otherwise provided
20 under this subdivision, \$15,000.00 for a joint return. If both
21 spouses filing a joint return receive retirement or pension
22 benefits from employment with a governmental agency that was not
23 covered by the federal social security act, chapter 531, 49 Stat
24 620, the sum of the deductions under subsection (1) (f) (i), (ii), and
25 (iv) is limited to \$30,000.00 for a joint return.

26 (e) Except as otherwise provided under subdivision (c) or (d),
27 for a person born after 1952, the deduction under subsection
28 (1) (f) (i), (ii), or (iv) does not apply. When that person reaches the
29 age of 67, that person is eligible for a deduction of \$20,000.00

1 for a single return and \$40,000.00 for a joint return, which
2 deduction is available against all types of income and is not
3 restricted to income from retirement or pension benefits. If a
4 person takes the deduction of \$20,000.00 for a single return and
5 \$40,000.00 for a joint return, that person shall not take the
6 deduction under subsection (1)(f)(iii) and shall not take the
7 personal exemption under subsection (2). That person may elect not
8 to take the deduction of \$20,000.00 for a single return and
9 \$40,000.00 for a joint return and elect to take the deduction under
10 subsection (1)(f)(iii) and the personal exemption under subsection
11 (2) if that election would reduce that person's tax liability. A
12 person who takes the deduction under subsection (1)(e) is not
13 eligible for the unrestricted deduction of \$20,000.00 for a single
14 return and \$40,000.00 for a joint return under this subdivision.

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

1 instead of taking the deduction allowed under subsection (1)(f),
2 for a single return, based on the date of birth of the older
3 spouse.

4 (10) As used in this section:

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

7 (b) "Senior citizen" means that term as defined in section
8 514.

9 (c) "United States Consumer Price Index" means the United
10 States Consumer Price Index for all urban consumers as defined and
11 reported by the United States Department of Labor, Bureau of Labor
12 Statistics.

13 Sec. 701. As used in this chapter:

14 (a) "Casino" means that term as defined in section 110.

15 (b) "Casino licensee" means a person licensed to operate a
16 casino under the Michigan Gaming Control and Revenue Act, 1996 IL
17 1, MCL 432.201 to 432.226.

18 (c) "Eligible production company" means that term as defined
19 under section 455 of the Michigan business tax act, 2007 PA 36, MCL
20 208.1455.

21 (d) "Flow-through entity" means an entity that for the
22 applicable tax year is treated as an S corporation under section
23 1362(a) of the internal revenue code, a general partnership, a
24 limited partnership, a limited liability partnership, or a limited
25 liability company, that for the applicable tax year is not taxed as
26 a corporation for federal income tax purposes. Flow-through entity
27 does not include any entity disregarded under section 699.

28 (e) "Member" means a shareholder of an S corporation, a
29 partner in a general partnership, a limited partnership, or a

1 limited liability partnership, a member of a limited liability
 2 company, or a beneficiary of a trust, that is a flow-through
 3 entity.

4 (f) "Nonresident" means an individual who is not a resident of
 5 or domiciled in this state, a business entity that does not have
 6 its commercial domicile in this state, or a trust not organized in
 7 this state.

8 (g) **"Overtime compensation" means compensation required to be**
 9 **paid to the employee by the employer under section 4a of the**
 10 **improved workforce opportunity wage act, 2018 PA 337, MCL 408.934a.**

11 (h) ~~(g)~~—"Partnership" means a taxpayer that is required to or
 12 has elected to file as a partnership for federal income tax
 13 purposes.

14 (i) ~~(h)~~—"Publicly traded partnership" means that term as
 15 defined under section 7704 of the internal revenue code.

16 (j) ~~(i)~~—"Race meeting licensee" and "track licensee" mean a
 17 person to whom a race meeting license or track license is issued
 18 pursuant to section 8 of the horse racing law of 1995, 1995 PA 279,
 19 MCL 431.308.

20 (k) ~~(j)~~—"S corporation" means a corporation electing taxation
 21 under subchapter S of chapter 1 of subtitle A of the internal
 22 revenue code, sections 1361 to 1379 of the internal revenue code.

23 Sec. 703. (1) A person who disburses pension or annuity
 24 payments, except as otherwise provided under this section, shall
 25 withhold a tax in an amount computed by applying the rate
 26 prescribed in section 51 on the taxable part of payments from an
 27 employer pension, annuity, profit-sharing, stock bonus, or other
 28 deferred compensation plan as well as from an individual retirement
 29 arrangement, an annuity, an endowment, or a life insurance contract

1 issued by a life insurance company. Withholding shall be calculated
2 on the taxable disbursement after deducting from the taxable
3 portion the same proportion of the total amount of personal and
4 dependency exemptions of the individual allowed under this act.
5 Withholding is not required on any part of a distribution that is
6 not expected to be includable in the recipient's gross income or
7 that is deductible from adjusted gross income under section
8 30(1)(e) or (f).

9 (2) Every employer in this state required under the provisions
10 of the internal revenue code to withhold a tax on the compensation
11 of an individual, except as otherwise provided, shall deduct and
12 withhold a tax in an amount computed by applying, except as
13 provided by subsection (14), the rate prescribed in section 51 to
14 the remainder of the compensation after deducting from compensation
15 the same proportion of the total amount of personal and dependency
16 exemptions of the individual allowed under this act that the period
17 of time covered by the compensation is of 1 year **and beginning on**
18 **and after January 1, 2023, after deducting from compensation any**
19 **overtime compensation.** The department may prescribe withholding
20 tables that may be used by employers to compute the amount of tax
21 required to be withheld.

22 (3) Except as otherwise provided under this section, for tax
23 years that begin before July 1, 2016, every flow-through entity in
24 this state shall withhold a tax in an amount computed by applying
25 the rate prescribed in section 51 to the distributive share of
26 taxable income reasonably expected to accrue after allocation and
27 apportionment under chapter 3 of each nonresident member who is an
28 individual after deducting from that distributive income the same
29 proportion of the total amount of personal and dependency

1 exemptions of the individual allowed under this act. All of the
2 taxes withheld under this section shall accrue to the state on
3 April 15, July 15, and October 15 of the flow-through entity's tax
4 year and January 15 of the following year, except a flow-through
5 entity that is not on a calendar year basis shall substitute the
6 appropriate due dates in the flow-through entity's fiscal year that
7 correspond to those in a calendar year. Withholding for each period
8 shall be equal to 1/4 of the total withholding calculated on the
9 distributive share that is reasonably expected to accrue during the
10 tax year of the flow-through entity.

11 (4) Except as otherwise provided under this section, for tax
12 years that begin before July 1, 2016, every flow-through entity
13 with business activity in this state that has more than \$200,000.00
14 of business income reasonably expected to accrue in the tax year
15 after allocation or apportionment shall withhold a tax in an amount
16 computed by applying the rate prescribed in section 623 to the
17 distributive share of the business income of each member that is a
18 corporation or that is a flow-through entity. For purposes of
19 calculating the \$200,000.00 withholding threshold, the business
20 income of a flow-through entity shall be apportioned to this state
21 by multiplying the business income by the sales factor of the flow-
22 through entity. The sales factor of the flow-through entity is a
23 fraction, the numerator of which is the total sales of the flow-
24 through entity in this state during the tax year and the
25 denominator of which is the total sales of the flow-through entity
26 everywhere during the tax year. As used in this subsection,
27 "business income" means that term as defined in section ~~603(2)~~.
28 **603.** For a partnership or S corporation, business income includes
29 payments and items of income and expense that are attributable to

1 business activity of the partnership or S corporation and
2 separately reported to the members. As used in this subsection,
3 "sales" means that term as defined in section 609 and sales in this
4 state is determined as provided in sections 665 and 669. All of the
5 taxes withheld under this section shall accrue to the state on
6 April 15, July 15, and October 15 of the flow-through entity's tax
7 year and January 15 of the following year, except a flow-through
8 entity that is not on a calendar year basis shall substitute the
9 appropriate due dates in the flow-through entity's fiscal year that
10 correspond to those in a calendar year. Withholding for each period
11 shall be equal to 1/4 of the total withholding calculated on the
12 distributive share of business income that is reasonably expected
13 to accrue during the tax year of the flow-through entity.

14 (5) For tax years that begin before July 1, 2016, if a flow-
15 through entity is subject to the withholding requirements of
16 subsection (4), then a member of that flow-through entity that is
17 itself a flow-through entity shall withhold a tax on the
18 distributive share of business income as described in subsection
19 (4) of each of its members. The department shall apply tax withheld
20 by a flow-through entity on the distributive share of business
21 income of a member flow-through entity to the withholding required
22 of that member flow-through entity. All of the taxes withheld under
23 this section shall accrue to the state on April 15, July 15, and
24 October 15 of the flow-through entity's tax year and January 15 of
25 the following year, except a flow-through entity that is not on a
26 calendar year basis shall substitute the appropriate due dates in
27 the flow-through entity's fiscal year that correspond to those in a
28 calendar year. Withholding for each period shall be equal to 1/4 of
29 the total withholding calculated on the distributive share of

1 business income that is reasonably expected to accrue during the
2 tax year of the flow-through entity.

3 (6) Every casino licensee shall withhold a tax in an amount
4 computed by applying the rate prescribed in section 51 to the
5 winnings of a nonresident reportable by the casino licensee under
6 the internal revenue code.

7 (7) Every race meeting licensee or track licensee shall
8 withhold a tax in an amount computed by applying the rate
9 prescribed in section 51 to a payoff price on a winning ticket of a
10 nonresident reportable by the race meeting licensee or track
11 licensee under the internal revenue code that is the result of
12 pari-mutuel wagering at a licensed race meeting.

13 (8) Every casino licensee or race meeting licensee or track
14 licensee shall report winnings of a resident reportable by the
15 casino licensee or race meeting licensee or track licensee under
16 the internal revenue code to the department in the same manner and
17 format as required under the internal revenue code.

18 (9) Every eligible production company shall, to the extent not
19 withheld by a professional services corporation or professional
20 employer organization, deduct and withhold a tax in an amount
21 computed by applying the rate prescribed in section 51 to the
22 remainder of the payments made to the professional services
23 corporation or professional employer organization for the services
24 of a performing artist or crew member after deducting from those
25 payments the same proportion of the total amount of personal and
26 dependency exemptions of the individuals allowed under this act.

27 (10) Every publicly traded partnership that has equity
28 securities registered with the securities and exchange commission
29 under section 12 of title I of the securities and exchange act of

1 1934, 15 USC 781, shall not be subject to withholding.

2 (11) Except as otherwise provided under this subsection, all
3 of the taxes withheld under this section shall accrue to the state
4 on the last day of the month in which the taxes are withheld but
5 shall be returned and paid to the department by the employer,
6 eligible production company, casino licensee, or race meeting
7 licensee or track licensee within 15 days after the end of any
8 month or as provided in section 705. For an employer that has
9 entered into an agreement with a community college pursuant to
10 chapter 13 of the community college act of 1966, 1966 PA 331, MCL
11 389.161 to 389.166, a portion of the taxes withheld under this
12 section that are attributable to each employee in a new job created
13 pursuant to the agreement shall accrue to the community college on
14 the last day of the month in which the taxes are withheld but shall
15 be returned and paid to the community college by the employer
16 within 15 days after the end of any month or as provided in section
17 705 for as long as the agreement remains in effect. For purposes of
18 this act and 1941 PA 122, MCL 205.1 to 205.31, payments made by an
19 employer to a community college under this subsection shall be
20 considered income taxes paid to this state.

21 (12) A person required by this section to deduct and withhold
22 taxes on income under this section holds the amount of tax withheld
23 as a trustee for this state and is liable for the payment of the
24 tax to this state or, if applicable, to the community college and
25 is not liable to any individual for the amount of the payment.

26 (13) An employer in this state is not required to deduct and
27 withhold a tax on the compensation paid to a nonresident individual
28 employee, who, under section 256, may claim a tax credit equal to
29 or in excess of the tax estimated to be due for the tax year or is

1 exempted from liability for the tax imposed by this act. In each
2 tax year, the nonresident individual shall furnish to the employer,
3 on a form approved by the department, a verified statement of
4 nonresidence.

5 (14) A person required to withhold a tax under this act, by
6 the fifteenth day of the following month, shall provide the
7 department with a copy of any exemption certificate on which a
8 person with income subject to withholding under subsection (6) or
9 (7) claims more than 9 personal or dependency exemptions, claims a
10 status that exempts the person subject to withholding under
11 subsection (6) or (7) from withholding under this section.

12 (15) A person who disburses annuity payments pursuant to the
13 terms of a qualified charitable gift annuity is not required to
14 deduct and withhold a tax on those payments as prescribed under
15 subsection (1). As used in this subsection, "qualified charitable
16 gift annuity" means an annuity described under section 501(m)(5) of
17 the internal revenue code and issued by an organization exempt
18 under section 501(c)(3) of the internal revenue code.

19 (16) Notwithstanding the requirements of subsections (4) and
20 (5), if a flow-through entity receives an exemption certificate
21 from a member other than a nonresident individual, the flow-through
22 entity shall not withhold a tax on the distributive share of the
23 business income of that member if all of the following conditions
24 are met:

25 (a) The exemption certificate is completed by the member in
26 the form and manner prescribed by the department and certifies that
27 the member will do all of the following:

28 (i) File the returns required under this act.

29 (ii) Pay or withhold the tax required under this act on the

1 distributive share of the business income received from any flow-
2 through entity in which the member has an ownership or beneficial
3 interest, directly or indirectly through 1 or more other flow-
4 through entities.

5 (iii) Submit to the taxing jurisdiction of this state for
6 purposes of collection of the tax under this act together with
7 related interest and penalties under 1941 PA 122, MCL 205.1 to
8 205.31, imposed on the member with respect to the distributive
9 share of the business income of that member.

10 (b) The department may require the member to file the
11 exemption certificate with the department and provide a copy to the
12 flow-through entity.

13 (c) The department may require a flow-through entity that
14 receives an exemption certificate to attach a copy of the exemption
15 certificate to the annual reconciliation return as required by
16 section 711. A flow-through entity that is entirely exempt from the
17 withholding requirements of subsection (4) or (5) by this
18 subsection may be required to furnish a copy of the exemption
19 certificate in another manner prescribed by the department.

20 (d) A copy of the exemption certificate shall be retained by
21 the member and flow-through entity and made available to the
22 department upon request. Any copy of the exemption certificate
23 shall be maintained in a format and for the period required by 1941
24 PA 122, MCL 205.1 to 205.31.

25 (17) The department may revoke the election provided for in
26 subsection (16) if it determines that the member or a flow-through
27 entity is not abiding by the terms of the exemption certificate or
28 the requirements of subsection (16). If the department does revoke
29 the election option under subsection (16), the department shall

1 notify the affected flow-through entity that withholding is
2 required on the member under subsection (4) or (5), beginning 60
3 days after notice of revocation is received.

4 (18) Notwithstanding the requirements of subsections (4) and
5 (5), a flow-through entity is not required to withhold in
6 accordance with this section for a member that voluntarily elects
7 to file a return and pay the tax imposed by the Michigan business
8 tax act under section 680 or section 500 of the Michigan business
9 tax act, 2007 PA 36, MCL 208.1500.

10 (19) Notwithstanding the withholding requirements of
11 subsection (3), (4), or (5), a flow-through entity is not required
12 to comply with those withholding requirements to the extent that
13 the withholding would violate any of the following:

14 (a) Housing assistance payment programs distribution
15 restrictions under 24 CFR part 880, 881, 883, or 891.

16 (b) Rural housing service return on investment restrictions
17 under 7 CFR 3560.68 or 3560.305.

18 (c) Articles of incorporation or other document of
19 organization adopted pursuant to section 83 or 93 of the state
20 housing development authority act of 1966, 1966 PA 346, MCL
21 125.1483 and 125.1493.