

# SENATE BILL NO. 768

December 02, 2021, Introduced by Senators NESBITT, SHIRKEY, BUMSTEAD, RUNESTAD, BARRETT, LASATA, VICTORY, ZORN, HORN, THEIS, OUTMAN, VANDERWALL, DALEY, LAUWERS, WOZNIAK and BIZON and referred to the Committee on Finance.

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending sections 51 and 623 (MCL 206.51 and 206.623), section 51 as amended by 2020 PA 75 and section 623 as amended by 2014 PA 13, and by adding section 254.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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

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.

14 **Sec. 254. (1) For tax years that begin on and after January 1,**  
15 **2022, a taxpayer may claim a credit against the tax imposed by this**  
16 **part equal to \$500.00 for each qualified dependent of the taxpayer**  
17 **for which an exemption was claimed under section 30(2)(b) for that**  
18 **same tax year. If the credit allowed under this section exceeds the**  
19 **tax liability of the taxpayer for the tax year, that portion of the**  
20 **credit that exceeds the tax liability shall not be refunded.**

21 (2) As used in this section, "qualified dependent" means a  
22 dependent who is less than 19 years of age on the last day of the  
23 tax year for which the credit is claimed.

24 Sec. 623. (1) Except as otherwise provided in this part, there  
25 is levied and imposed a corporate income tax on every taxpayer with  
26 business activity within this state or ownership interest or  
27 beneficial interest in a flow-through entity that has business  
28 activity in this state unless prohibited by 15 USC 381 to 384. The  
29 corporate income tax is imposed on the corporate income tax base,

1 after allocation or apportionment to this state, at the ~~rate of~~  
2 **following rates in the following circumstances:**

3 **(a) Through December 31, 2021, 6.0%.**

4 **(b) On and after January 1, 2022, 3.9%.**

5 (2) The corporate income tax base means a taxpayer's business  
6 income subject to the following adjustments, before allocation or  
7 apportionment, and the adjustment in subsection (4) after  
8 allocation or apportionment:

9 (a) Add interest income and dividends derived from obligations  
10 or securities of states other than this state, in the same amount  
11 that was excluded from federal taxable income, less the related  
12 portion of expenses not deducted in computing federal taxable  
13 income because of sections 265 and 291 of the internal revenue  
14 code.

15 (b) Add all taxes on or measured by net income including the  
16 tax imposed under this part to the extent that the taxes were  
17 deducted in arriving at federal taxable income.

18 (c) Add any carryback or carryover of a net operating loss to  
19 the extent deducted in arriving at federal taxable income.

20 (d) To the extent included in federal taxable income, deduct  
21 dividends and royalties received from persons other than United  
22 States persons and foreign operating entities, including, but not  
23 limited to, amounts determined under section 78 of the internal  
24 revenue code or sections 951 to ~~964~~**965** of the internal revenue  
25 code.

26 (e) Except as otherwise provided under this subdivision, to  
27 the extent deducted in arriving at federal taxable income, add any  
28 royalty, interest, or other expense paid to a person related to the  
29 taxpayer by ownership or control for the use of an intangible asset

1 if the person is not included in the taxpayer's unitary business  
2 group. The addition of any royalty, interest, or other expense  
3 described under this subdivision is not required to be added if the  
4 taxpayer can demonstrate that the transaction has a nontax business  
5 purpose, is conducted with arm's-length pricing and rates and terms  
6 as applied in accordance with sections 482 and 1274(d) of the  
7 internal revenue code, and 1 of the following is true:

8 (i) The transaction is a pass through of another transaction  
9 between a third party and the related person with comparable rates  
10 and terms.

11 (ii) An addition would result in double taxation. For purposes  
12 of this subparagraph, double taxation exists if the transaction is  
13 subject to tax in another jurisdiction.

14 (iii) An addition would be unreasonable as determined by the  
15 state treasurer.

16 (iv) The related person recipient of the transaction is  
17 organized under the laws of a foreign nation which has in force a  
18 comprehensive income tax treaty with the United States.

19 (f) To the extent included in federal taxable income, deduct  
20 interest income derived from United States obligations.

21 (g) For tax years beginning after December 31, 2011, eliminate  
22 all of the following:

23 (i) Income from producing oil and gas to the extent included in  
24 federal taxable income.

25 (ii) Expenses of producing oil and gas to the extent deducted  
26 in arriving at federal taxable income.

27 (h) For tax years beginning after December 31, 2012, for a  
28 qualified taxpayer, eliminate all of the following:

29 (i) Income derived from a mineral to the extent included in



1 federal taxable income.

2 (ii) Expenses related to the income deductible under  
3 subparagraph (i) to the extent deducted in arriving at federal  
4 taxable income.

5 (3) For purposes of subsection (2), the business income of a  
6 unitary business group is the sum of the business income of each  
7 person included in the unitary business group less any items of  
8 income and related deductions arising from transactions including  
9 dividends between persons included in the unitary business group.

10 (4) Deduct any available business loss incurred after December  
11 31, 2011. As used in this subsection, "business loss" means a  
12 negative business income taxable amount after allocation or  
13 apportionment. For purposes of this subsection, a taxpayer that  
14 acquires the assets of another corporation in a transaction  
15 described under section 381(a)(1) or (2) of the internal revenue  
16 code may deduct any business loss attributable to that distributor  
17 or transferor corporation. The business loss shall be carried  
18 forward to the year immediately succeeding the loss year as an  
19 offset to the allocated or apportioned corporate income tax base,  
20 then successively to the next 9 taxable years following the loss  
21 year or until the loss is used up, whichever occurs first.

22 (5) As used in this section, "oil and gas" means oil and gas  
23 that is subject to severance tax under 1929 PA 48, MCL 205.301 to  
24 205.317.