

**SUBSTITUTE FOR
HOUSE BILL NO. 5420**

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending sections 8, 12, 30, 30a, 51, 52, 512, and 607 (MCL
206.8, 206.12, 206.30, 206.30a, 206.51, 206.52, 206.512, and
206.607), section 12 as amended by 2003 PA 45, section 30 as
amended by 2017 PA 149, section 30a as added by 2012 PA 224,
section 51 as amended by 2016 PA 266, sections 52 and 512 as
amended by 2011 PA 38, and section 607 as amended by 2011 PA 306;
and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8. (1) "Department" means the revenue division of the
2 department of treasury.

3 (2) "DEPENDENT" MEANS A DEPENDENT AS DEFINED IN SECTION 152 OF
4 THE INTERNAL REVENUE CODE.

1 **(3)** ~~(2)~~—"Employee" means an employee as defined in section
 2 3401(c) of the internal revenue code. Any person from whom an
 3 employer is required to withhold for federal income tax purposes
 4 shall prima facie be deemed an employee.

5 **(4)** ~~(3)~~—"Employer" means an employer as defined in section
 6 3401(d) of the internal revenue code. Any person required to
 7 withhold for federal income tax purposes shall prima facie be
 8 deemed an employer.

9 Sec. 12. (1) "Flow-through entity" means an S corporation,
 10 partnership, limited partnership, limited liability partnership, or
 11 limited liability company. Flow-through entity does not include a
 12 publicly traded partnership as that term is defined in section 7704
 13 of the internal revenue code that has equity securities registered
 14 with the securities and exchange commission under section 12 of
 15 title I of the securities exchange act of 1934, ~~chapter 404, 48~~
 16 ~~Stat. 881, 15 U.S.C. USC 781.~~

17 (2) "Gross income" means gross income as defined in the
 18 internal revenue code.

19 (3) "Internal revenue code" means the United States internal
 20 revenue code of 1986 in effect on January 1, ~~1996~~ **2018** or at the
 21 option of the taxpayer, in effect for the tax year.

22 (4) "Member of a flow-through entity" means a shareholder of
 23 an S corporation; a partner in a partnership or limited
 24 partnership; or a member of a limited liability company.

25 (5) "Nonresident member" means any of the following that is a
 26 member of a flow-through entity:

27 (a) An individual who is not domiciled in this state.

1 (b) A nonresident estate or trust.

2 (c) A flow-through entity with a nonresident member.

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

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

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

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

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

26 (e) Deduct, to the extent included in adjusted gross income,
27 the following:

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

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

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

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

11 (i) Retirement or pension benefits received from a federal
12 public retirement system or from a public retirement system of or
13 created by this state or a political subdivision of this state.

14 (ii) Retirement or pension benefits received from a public
15 retirement system of or created by another state or any of its
16 political subdivisions if the income tax laws of the other state
17 permit a similar deduction or exemption or a reciprocal deduction
18 or exemption of a retirement or pension benefit received from a
19 public retirement system of or created by this state or any of the
20 political subdivisions of this state.

21 (iii) Social ~~security~~**SECURITY** benefits as defined in section
22 86 of the internal revenue code.

23 (iv) Beginning on and after January 1, 2007, retirement or
24 pension benefits not deductible under subparagraph (i) or
25 subdivision (e) from any other retirement or pension system or
26 benefits from a retirement annuity policy in which payments are
27 made for life to a senior citizen, to a maximum of \$42,240.00 for a

1 single return and \$84,480.00 for a joint return. The maximum
2 amounts allowed under this subparagraph shall be reduced by the
3 amount of the deduction for retirement or pension benefits claimed
4 under subparagraph (i) or subdivision (e) and by the amount of a
5 deduction claimed under subdivision (p). For the 2008 tax year and
6 each tax year after 2008, the maximum amounts allowed under this
7 subparagraph shall be adjusted by the percentage increase in the
8 United States ~~consumer price index~~ **CONSUMER PRICE INDEX** for the
9 immediately preceding calendar year. The department shall annualize
10 the amounts provided in this subparagraph as necessary. As used in
11 this subparagraph, "senior citizen" means that term as defined in
12 section 514.

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

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

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

19 (i) Adjustments resulting from the allocation and
20 apportionment provisions of chapter 3.

21 (j) Deduct the following payments made by the taxpayer in the
22 tax year:

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

27 (ii) The amount of payment made under an advance tuition

1 payment contract as provided in the Michigan education trust act,
2 1986 PA 316, MCL 390.1421 to 390.1442.

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

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

10 (B) The contract applies only for a state institution of
11 higher education as defined in the Michigan education trust act,
12 1986 PA 316, MCL 390.1421 to 390.1442, or a community or junior
13 college in Michigan.

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

17 (D) The contract is entered into after either of the
18 following:

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

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

27 (k) If an advance tuition payment contract under the Michigan

1 education trust act, 1986 PA 316, MCL 390.1421 to 390.1442, or
2 another contract for which the payment was deductible under
3 subdivision (j) is terminated and the qualified beneficiary under
4 that contract does not attend a university, college, junior or
5 community college, or other institution of higher education, add
6 the amount of a refund received by the taxpayer as a result of that
7 termination or the amount of the deduction taken under subdivision
8 (j) for payment made under that contract, whichever is less.

9 (l) Deduct from the taxable income of a purchaser the amount
10 included as income to the purchaser under the internal revenue code
11 after the advance tuition payment contract entered into under the
12 Michigan education trust act, 1986 PA 316, MCL 390.1421 to
13 390.1442, is terminated because the qualified beneficiary attends
14 an institution of postsecondary education other than either a state
15 institution of higher education or an institution of postsecondary
16 education located outside this state with which a state institution
17 of higher education has reciprocity.

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

21 (n) Deduct a net operating loss deduction for the taxable year
22 as determined under section 172 of the internal revenue code
23 subject to the modifications under section 172(b)(2) of the
24 internal revenue code and subject to the allocation and
25 apportionment provisions of chapter 3 of this part for the taxable
26 year in which the loss was incurred.

27 (o) Deduct, to the extent included in adjusted gross income,

1 benefits from a discriminatory self-insurance medical expense
2 reimbursement plan.

3 (p) Beginning on and after January 1, 2007, subject to any
4 limitation provided in this subdivision, a taxpayer who is a senior
5 citizen may deduct to the extent included in adjusted gross income,
6 interest, dividends, and capital gains received in the tax year not
7 to exceed \$9,420.00 for a single return and \$18,840.00 for a joint
8 return. The maximum amounts allowed under this subdivision shall be
9 reduced by the amount of a deduction claimed for retirement or
10 pension benefits under subdivision (e) or a deduction claimed under
11 subdivision (f) (i), (ii), (iv), or (v). For the 2008 tax year and
12 each tax year after 2008, the maximum amounts allowed under this
13 subdivision shall be adjusted by the percentage increase in the
14 United States ~~consumer price index~~ **CONSUMER PRICE INDEX** for the
15 immediately preceding calendar year. The department shall annualize
16 the amounts provided in this subdivision as necessary. Beginning
17 January 1, 2012, the deduction under this subdivision is not
18 available to a senior citizen born after 1945. As used in this
19 subdivision, "senior citizen" means that term as defined in section
20 514.

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

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

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

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

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

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

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

27 (ii) "Recovered asset" means any asset of any type and any

1 interest earned on that asset including, but not limited to, bank
2 deposits, insurance proceeds, or artwork owned by a Holocaust
3 victim during the period from 1920 to 1945, withheld from that
4 Holocaust victim from and after 1945, and not recovered, returned,
5 or otherwise compensated to the Holocaust victim until after 1993.

6 (t) Deduct ~~, to the extent not deducted in determining~~
7 ~~adjusted gross income, both~~ **ALL** of the following:

8 (i) ~~Contributions~~ **TO THE EXTENT NOT DEDUCTED IN DETERMINING**
9 **ADJUSTED GROSS INCOME, CONTRIBUTIONS** made by the taxpayer in the
10 tax year less qualified withdrawals made in the tax year from
11 education savings accounts, calculated on a per education savings
12 account basis, pursuant to the Michigan education savings program
13 act, 2000 PA 161, MCL 390.1471 to 390.1486, not to exceed a total
14 deduction of \$5,000.00 for a single return or \$10,000.00 for a
15 joint return per tax year. The amount calculated under this
16 subparagraph for each education savings account shall not be less
17 than zero.

18 (ii) ~~The amount under section 30f.~~ **TO THE EXTENT INCLUDED IN**
19 **ADJUSTED GROSS INCOME, INTEREST EARNED IN THE TAX YEAR ON THE**
20 **CONTRIBUTIONS TO THE TAXPAYER'S EDUCATION SAVINGS ACCOUNTS IF THE**
21 **CONTRIBUTIONS WERE DEDUCTIBLE UNDER SUBPARAGRAPH (i) .**

22 (iii) **TO THE EXTENT INCLUDED IN ADJUSTED GROSS INCOME,**
23 **DISTRIBUTIONS THAT ARE QUALIFIED WITHDRAWALS FROM AN EDUCATION**
24 **SAVINGS ACCOUNT TO THE DESIGNATED BENEFICIARY OF THAT EDUCATION**
25 **SAVINGS ACCOUNT.**

26 (u) Add, to the extent not included in adjusted gross income,
27 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

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
18 all 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) For tax years beginning after December 31, 2011, eliminate
27 all of the following:

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

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

5 (x) For tax years that begin after December 31, 2015, deduct ~~7~~
6 ~~to the extent not deducted in determining adjusted gross income,~~
7 all of the following:

8 (i) ~~Contributions~~ **TO THE EXTENT NOT DEDUCTED IN DETERMINING**
9 **ADJUSTED GROSS INCOME, CONTRIBUTIONS** made by the taxpayer in the
10 tax year less qualified withdrawals made in the tax year from an
11 ABLE savings account, pursuant to the Michigan ABLE program act,
12 2015 PA 160, MCL 206.981 to 206.997, not to exceed a total
13 deduction of \$5,000.00 for a single return or \$10,000.00 for a
14 joint return per tax year. The amount calculated under this
15 subparagraph for an ABLE savings account shall not be less than
16 zero.

17 (ii) ~~Interest~~ **TO THE EXTENT INCLUDED IN ADJUSTED GROSS INCOME,**
18 **INTEREST** earned in the tax year on the contributions to the
19 taxpayer's ABLE savings account if the contributions were
20 deductible under subparagraph (i).

21 (iii) ~~Distributions~~ **TO THE EXTENT INCLUDED IN ADJUSTED GROSS**
22 **INCOME, DISTRIBUTIONS** that are qualified withdrawals from an ABLE
23 savings account to the designated beneficiary of that ABLE savings
24 account.

25 (y) Add, to the extent not included in adjusted gross income,
26 the amount of money withdrawn by the taxpayer in the tax year from
27 an ABLE savings account, not to exceed the total amount deducted

under subdivision (x) in the tax year and all previous tax years, if the withdrawal was not a qualified withdrawal as provided in the Michigan ABLE program act, 2015 PA 160, MCL 206.981 to 206.997.

This subdivision does not apply to withdrawals that are less than the sum of all contributions made to an ABLE savings account in all previous tax years for which no deduction was claimed under subdivision (x), less any contributions for which no deduction was claimed under subdivision (x) that were withdrawn in all previous tax years.

(2) Except as otherwise provided in subsection (7) **AND SECTION 30A**, a personal exemption of \$3,700.00 multiplied by the number of personal ~~or AND~~ dependency exemptions allowable ~~on the taxpayer's federal income tax return pursuant to the internal revenue code~~ shall be subtracted in the calculation that determines taxable income. **THE NUMBER OF PERSONAL AND DEPENDENCY EXEMPTIONS ALLOWED SHALL BE DETERMINED AS FOLLOWS:**

(A) EACH TAXPAYER MAY CLAIM 1 PERSONAL EXEMPTION. HOWEVER, IF A JOINT RETURN IS NOT MADE BY THE TAXPAYER AND HIS OR HER SPOUSE, THE TAXPAYER MAY CLAIM A PERSONAL EXEMPTION FOR THE SPOUSE IF THE SPOUSE, FOR THE CALENDAR YEAR IN WHICH THE TAXABLE YEAR OF THE TAXPAYER BEGINS, DOES NOT HAVE ANY GROSS INCOME AND IS NOT THE DEPENDENT OF ANOTHER TAXPAYER.

(B) A TAXPAYER MAY CLAIM A DEPENDENCY EXEMPTION FOR EACH INDIVIDUAL WHO IS A DEPENDENT OF THE TAXPAYER FOR THE TAX YEAR.

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

1 following circumstances:

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

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

18 (i) "Qualified disabled veteran" means a veteran with a
19 service-connected disability.

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

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

27 (4) An individual with respect to whom a deduction under

~~section 151 of the internal revenue code~~ **SUBSECTION (2)** is allowable to another ~~federal~~-taxpayer during the tax year is not considered to have an allowable federal **ENTITLED TO AN** exemption for purposes of subsection (2), but may subtract \$1,500.00 in the calculation that determines taxable income for a tax year.

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

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

(7) For each tax year beginning on and after January 1, 2013, the personal exemption allowed under subsection (2) shall be adjusted by multiplying the exemption for the tax year beginning in 2012 by a fraction, the numerator of which is the United States ~~consumer price index~~ **CONSUMER PRICE INDEX** for the state fiscal year ending in the tax year prior to the tax year for which the adjustment is being made and the denominator of which is the United States ~~consumer price index~~ **CONSUMER PRICE INDEX** for the 2010-2011 state fiscal year. The resultant product shall be rounded to the nearest \$100.00 increment. As used in this section, "United States ~~consumer price index~~" **CONSUMER PRICE INDEX**" means the United States ~~consumer price index~~ **CONSUMER PRICE INDEX** for all urban consumers as defined and reported by the United States Department of Labor,

Bureau of Labor Statistics. For each tax year, the exemptions allowed under subsection (3) shall be adjusted by multiplying the exemption amount under subsection (3) for the tax year by a fraction, the numerator of which is the United States ~~consumer price index~~ **CONSUMER PRICE INDEX** for the state fiscal year ending the tax year prior to the tax year for which the adjustment is being made and the denominator of which is the United States ~~consumer price index~~ **CONSUMER PRICE INDEX** for the 1998-1999 state fiscal year. The resultant product shall be rounded to the nearest \$100.00 increment.

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

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

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

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

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

(iv) Distributions from a 401(k) plan attributable to employee

1 contributions mandated by the plan or attributable to employer
2 contributions.

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

5 (i) Plans of the United States, state governments other than
6 this state, and political subdivisions, agencies, or
7 instrumentalities of this state.

8 (ii) Plans maintained by a church or a convention or
9 association of churches.

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

13 (c) Retirement or pension benefits received by a surviving
14 spouse if those benefits qualified for a deduction prior to the
15 decedent's death. Benefits received by a surviving child are not
16 deductible.

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

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

22 (A) Deferred compensation plans under section 457 of the
23 internal revenue code.

24 (B) Distributions from plans under section 401(k) of the
25 internal revenue code other than plans described in subdivision

26 (a) (iv) .

27 (C) Distributions from plans under section 403(b) of the

1 internal revenue code other than plans described in subdivision
2 (a) (iii) .

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

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

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

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

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

25 (c) Beginning January 1, 2013 for a person born in 1946
26 through 1952 and beginning January 1, 2018 for a person born after
27 1945 who has retired as of January 1, 2013, if that person receives

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

22 (d) Except as otherwise provided under subdivision (c) for a
23 person who was retired as of January 1, 2013, for a person born
24 after 1952 who has reached the age of 62 through 66 years of age
25 and who receives retirement or pension benefits from employment
26 with a governmental agency that was not covered by the federal
27 social security act, chapter 532, 49 Stat 620, the sum of the

1 deductions under subsection (1)(f)(i), (ii), and (iv) is limited to
2 \$15,000.00 for a single return and, except as otherwise provided
3 under this subdivision, \$15,000.00 for a joint return. If both
4 spouses filing a joint return receive retirement or pension
5 benefits from employment with a governmental agency that was not
6 covered by the federal social security act, chapter 532, 49 Stat
7 620, the sum of the deductions under subsection (1)(f)(i), (ii),
8 and (iv) is limited to \$30,000.00 for a joint return.

9 (e) Except as otherwise provided under subdivision (c) or (d),
10 for a person born after 1952, the deduction under subsection
11 (1)(f)(i), (ii), or (iv) does not apply. When that person reaches
12 the age of 67, that person is eligible for a deduction of
13 \$20,000.00 for a single return and \$40,000.00 for a joint return,
14 which deduction is available against all types of income and is not
15 restricted to income from retirement or pension benefits. If a
16 person takes the deduction of \$20,000.00 for a single return and
17 \$40,000.00 for a joint return, that person shall not take the
18 deduction under subsection (1)(f)(iii) and shall not take the
19 personal exemption under subsection (2). That person may elect not
20 to take the deduction of \$20,000.00 for a single return and
21 \$40,000.00 for a joint return and elect to take the deduction under
22 subsection (1)(f)(iii) and the personal exemption under subsection
23 (2) if that election would reduce that person's tax liability. A
24 person who takes the deduction under subsection (1)(e) is not
25 eligible for the unrestricted deduction of \$20,000.00 for a single
26 return and \$40,000.00 for a joint return under this subdivision.

27 (f) For a joint return, the limitations and restrictions in

1 this subsection shall be applied based on the age of the older
2 spouse filing the joint return.

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

5 Sec. 30a. Notwithstanding any other provision of this part,
6 for the 2012 tax year and each tax year after 2012, taxable income
7 for purposes of this part means taxable income as determined under
8 section 30 with the following adjustment. For the 2012 tax year and
9 each tax year after 2012, to determine taxable income, a taxpayer
10 shall claim a personal exemption deduction equal to the amount
11 calculated pursuant to section 30(2) or equal to the following
12 amounts multiplied by the number of personal ~~or~~ **AND** dependency
13 exemptions allowable ~~on the taxpayer's federal income tax return~~
14 ~~pursuant to the internal revenue code, UNDER SECTION 30(2),~~
15 whichever calculation is greater:

16 (a) Beginning on and after October 1, 2012 and before January
17 1, 2014, \$3,950.00. The department shall annualize the personal
18 exemption deduction for the 2012 tax year, rounded to the nearest
19 \$1.00.

20 (b) Beginning on and after January 1, 2014 and ~~each year after~~
21 ~~2014,~~ **BEFORE JANUARY 1, 2018,** \$4,000.00.

22 **(C) FOR THE 2018 TAX YEAR, \$4,300.00.**

23 **(D) FOR THE 2019 TAX YEAR, \$4,600.00.**

24 **(E) FOR THE 2020 TAX YEAR AND EACH TAX YEAR AFTER 2020,**
25 **\$4,800.00.**

26 Sec. 51. (1) For receiving, earning, or otherwise acquiring
27 income from any source whatsoever, there is levied and imposed

1 under this part upon the taxable income of every person other than
2 a corporation a tax at the following rates in the following
3 circumstances:

4 (a) On and after October 1, 2007 and before October 1, 2012,
5 4.35%.

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

8 (c) For each tax year beginning on and after January 1, 2023,
9 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

1 shall make the determination under this subdivision no later than
 2 the date of the January 2023 revenue estimating conference
 3 conducted pursuant to sections 367a through 367f of the management
 4 and budget act, 1984 PA 431, MCL 18.1367a to 18.1367f, and the date
 5 of each January revenue estimating conference conducted each year
 6 thereafter. As used in this subdivision:

7 (i) "Capped general fund/general purpose revenue" means the
 8 total general fund/general purpose revenue from the 2020-2021 state
 9 fiscal year multiplied by the sum of 1 plus the product of 1.425
 10 times the difference between a fraction, the numerator of which is
 11 the ~~consumer price index~~ **CONSUMER PRICE INDEX** for the state fiscal
 12 year ending in the tax year prior to the tax year for which the
 13 adjustment is being made and the denominator of which is the
 14 ~~consumer price index~~ **CONSUMER PRICE INDEX** for the 2020-2021 state
 15 fiscal year, and 1.

16 (ii) "Total general fund/general purpose revenue" means the
 17 total general fund/general purpose revenue and other financing
 18 sources as published in the comprehensive annual financial report
 19 schedule of revenue and other financing sources - general fund for
 20 that fiscal year plus any distribution made pursuant to section
 21 51d.

22 (2) Beginning January 1, 2000, that percentage of the gross
 23 collections before refunds from the tax levied under this section
 24 that is equal to 1.012% divided by the income tax rate levied under
 25 this section shall be deposited in the state school aid fund
 26 created in section 11 of article IX of the state constitution of
 27 1963. **IN ADDITION TO THE AMOUNT ALREADY DEPOSITED UNDER THIS**

House Bill No. 5420 as amended January 25, 2018

1 **SUBSECTION, AN AMOUNT EQUAL TO ALL REVENUE LOST [TO THE STATE SCHOOL AID**
2 **FUND] UNDER THIS PART AS**

3 **A RESULT OF THE CHANGES IMPLEMENTED FOR PERSONAL AND DEPENDENCY**
4 **EXEMPTIONS IN SECTIONS 30 AND 30A BY THE AMENDATORY ACT THAT ADDED**
5 **THIS SENTENCE, AS DETERMINED BY THE DEPARTMENT, SHALL BE DEPOSITED**
6 **IN THE STATE SCHOOL AID FUND CREATED IN SECTION 11 OF ARTICLE IX OF**
7 **THE STATE CONSTITUTION OF 1963.**

8 (3) In addition to the distribution under subsection (2) and
9 section 51d, beginning October 1, 2016, from the revenue collected
10 under this section an amount equal to 3.5% of the average amount of
11 farmland tax credits claimed under section 36109 of the natural
12 resources and environmental protection act, 1994 PA 451, MCL
13 324.36109, for the immediately preceding 3 state fiscal years shall
14 be deposited into the agricultural preservation fund created in
15 section 36202 of the natural resources and environmental protection
16 act, 1994 PA 451, MCL 324.36202.

17 (4) The department shall annualize rates provided in
18 subsection (1) as necessary. The applicable annualized rate shall
19 be imposed upon the taxable income of every person other than a
20 corporation for those tax years.

21 (5) The taxable income of a nonresident shall be computed in
22 the same manner that the taxable income of a resident is computed,
23 subject to the allocation and apportionment provisions of this
24 part.

25 (6) A resident beneficiary of a trust whose taxable income
26 includes all or part of an accumulation distribution by a trust, as
27 defined in section 665 of the internal revenue code, shall be
allowed a credit against the tax otherwise due under this part. The

1 credit shall be all or a proportionate part of any tax paid by the
 2 trust under this part for any preceding taxable year that would not
 3 have been payable if the trust had in fact made distribution to its
 4 beneficiaries at the times and in the amounts specified in section
 5 666 of the internal revenue code. The credit shall not reduce the
 6 tax otherwise due from the beneficiary to an amount less than would
 7 have been due if the accumulation distribution were excluded from
 8 taxable income.

9 (7) The taxable income of a resident who is required to
 10 include income from a trust in his or her federal income tax return
 11 under the provisions of 26 USC 671 to 679, shall include items of
 12 income and deductions from the trust in taxable income to the
 13 extent required by this part with respect to property owned
 14 outright.

15 (8) It is the intention of this section that the income
 16 subject to tax of every person other than corporations shall be
 17 computed in like manner and be the same as provided in the internal
 18 revenue code subject to adjustments specifically provided for in
 19 this part.

20 (9) As used in this section:

21 (a) "~~Consumer price index~~" **PRICE INDEX** means the United
 22 States ~~consumer price index~~ **CONSUMER PRICE INDEX** for all urban
 23 consumers as defined and reported by the United States Department
 24 of Labor, Bureau of Labor Statistics.

25 (b) "Inflation rate" means the annual percentage change in the
 26 ~~consumer price index~~, **CONSUMER PRICE INDEX**, as determined by the
 27 department, comparing the 2 most recent completed state fiscal

1 years.

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

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

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

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

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

13 Sec. 52. ~~For tax years beginning after 1986, a~~ A person with
14 respect to whom a deduction ~~under section 151 of the internal~~
15 ~~revenue code~~ is allowable to another federal taxpayer during the
16 tax year is not considered to have an allowable ~~federal~~ exemption
17 for purposes of section 30(2) and, notwithstanding sections 51 and
18 315, if that person has an adjusted gross income for that tax year
19 of \$1,500.00 or less, is exempt from the tax levied and imposed in
20 section 51 and is not required to file a return under this part.

21 Sec. 512. (1) "Paraplegic, hemiplegic, or quadriplegic" means
22 an individual, or either 1 of 2 persons filing a joint tax return
23 under this part, who is a paraplegic, hemiplegic, or quadriplegic
24 at the end of the tax year.

25 ~~— (2) "Property taxes" means, for tax years before the 2003 tax~~
26 ~~year, general ad valorem taxes due and payable, levied on a~~
27 ~~homestead within this state including property tax administration~~

~~fees, but does not include penalties, interest, or special assessments unless assessed in the entire city, village, or township, levied using a uniform millage rate on all real property not exempt by state law from the levy of the special assessment, and levied and based on state equalized valuation or taxable value.~~

~~—— (3) "Qualified person" means a claimant and any person, domiciled in Michigan, who can be claimed as a dependent under the internal revenue code and who does not file a claim under this part for the same tax year. The term does not include the additional exemptions allowed for age or blindness.~~

~~(2) (4) "Renter" means a person who rents or leases a homestead.~~

Sec. 607. (1) "Federal taxable income" means taxable income as defined in section 63 of the internal revenue code, except that federal taxable income shall be calculated as if section 168(k) and section 199 of the internal revenue code were not in effect.

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

(3) "Foreign operating entity" means a United States corporation that satisfies each of the following:

(a) Would otherwise be a part of a unitary business group that

1 has at least 1 corporation included in the unitary business group
2 that is taxable in this state.

3 (b) Has substantial operations outside the United States, the
4 District of Columbia, any territory or possession of the United
5 States except for the Commonwealth of Puerto Rico, or a political
6 subdivision of any of the foregoing.

7 (c) At least 80% of its income is active foreign business
8 income as defined in section 861(c)(1)(B) of the internal revenue
9 code.

10 (4) "Gross receipts" means the entire amount received by the
11 taxpayer from any activity whether in intrastate, interstate, or
12 foreign commerce carried on for direct or indirect gain, benefit,
13 or advantage to the taxpayer or to others except for the following:

14 (a) Proceeds from sales by a principal that the taxpayer
15 collects in an agency capacity solely on behalf of the principal
16 and delivers to the principal.

17 (b) Amounts received by the taxpayer as an agent solely on
18 behalf of the principal that are expended by the taxpayer for any
19 of the following:

20 (i) The performance of a service by a third party for the
21 benefit of the principal that is required by law to be performed by
22 a licensed person.

23 (ii) The performance of a service by a third party for the
24 benefit of the principal that the taxpayer has not undertaken a
25 contractual duty to perform.

26 (iii) Principal and interest under a mortgage loan or land
27 contract, lease or rental payments, or taxes, utilities, or

1 insurance premiums relating to real or personal property owned or
2 leased by the principal.

3 (iv) A capital asset of a type that is, or under the internal
4 revenue code will become, eligible for depreciation, amortization,
5 or accelerated cost recovery by the principal for federal income
6 tax purposes, or for real property owned or leased by the
7 principal.

8 (v) Property not described under subparagraph (iv) purchased
9 by the taxpayer on behalf of the principal and that the taxpayer
10 does not take title to or use in the course of performing its
11 contractual business activities.

12 (vi) Fees, taxes, assessments, levies, fines, penalties, or
13 other payments established by law that are paid to a governmental
14 entity and that are the legal obligation of the principal.

15 (c) Amounts that are excluded from gross income of a foreign
16 corporation engaged in the international operation of aircraft
17 under section 883(a) of the internal revenue code.

18 (d) Amounts received by an advertising agency used to acquire
19 advertising media time, space, production, or talent on behalf of
20 another person.

21 (e) Notwithstanding any other provision of this section,
22 amounts received by a taxpayer that manages real property owned by
23 the taxpayer's client that are deposited into a separate account
24 kept in the name of the taxpayer's client and that are not
25 reimbursements to the taxpayer and are not indirect payments for
26 management services that the taxpayer provides to that client.

27 (f) Proceeds from the taxpayer's transfer of an account

1 receivable if the sale that generated the account receivable was
2 included in gross receipts for federal income tax purposes. This
3 subdivision does not apply to a taxpayer that during the tax year
4 both buys and sells any receivables.

5 (g) Proceeds from any of the following:

6 (i) The original issue of stock or equity instruments.

7 (ii) The original issue of debt instruments.

8 (h) Refunds from returned merchandise.

9 (i) Cash and in-kind discounts.

10 (j) Trade discounts.

11 (k) Federal, state, or local tax refunds.

12 (l) Security deposits.

13 (m) Payment of the principal portion of loans.

14 (n) Value of property received in a like-kind exchange.

15 (o) Proceeds from a sale, transaction, exchange, involuntary
16 conversion, or other disposition of tangible, intangible, or real
17 property that is a capital asset as defined in section 1221(a) of
18 the internal revenue code or land that qualifies as property used
19 in the trade or business as defined in section 1231(b) of the
20 internal revenue code, less any gain from the disposition to the
21 extent that gain is included in federal taxable income.

22 (p) The proceeds from a policy of insurance, a settlement of a
23 claim, or a judgment in a civil action less any proceeds under this
24 subdivision that are included in federal taxable income.

25 (5) "Insurance company" means an authorized insurer as defined
26 in section 108 of the insurance code of 1956, 1956 PA 218, MCL
27 500.108.

1 (6) "Internal revenue code" means the United States internal
2 revenue code of 1986 in effect on January 1, ~~2012~~**2018** or, at the
3 option of the taxpayer, in effect for the tax year.

4 (7) "Member", when used in reference to a flow-through entity,
5 means a shareholder of a subchapter S corporation, a partner in a
6 general partnership, a limited partnership, or a limited liability
7 partnership, a member of a limited liability company, or a
8 beneficiary of a trust that is a flow-through entity.

9 Enacting section 1. Sections 30e and 30f of the income tax act
10 of 1967, 1967 PA 281, MCL 206.30e and 206.30f, are repealed.

11 Enacting section 2. This amendatory act does not take effect
12 unless all of the following bills of the 99th Legislature are
13 enacted into law:

14 (a) House Bill No. 5421.

15 (b) House Bill No. 5422.