HOUSE BILL No. 4951

June 16, 2005, Introduced by Reps. Gonzales and Meisner and referred to the Committee on Tax Policy.

A bill to amend 1967 PA 281, entitled

"Income tax act of 1967,"

by amending section 36 (MCL 206.36).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1   Sec. 36. (1) "Taxable income" in the case of a resident estate

2   or trust means federal taxable income as defined in the internal

3   revenue code subject to the following adjustments:

4   (a) Add gross interest income and dividends derived from

5   obligations or securities of states other than Michigan, in the

6   same amount which has been excluded from federal taxable income

7   less related expenses not deducted in computing federal taxable

8   income because of section 265 of the internal revenue code.

9   (b) Add taxes on or measured by income to the extent the taxes

10   have been deducted in arriving at federal taxable income.

11   (c) Add losses on the sale or exchange of obligations of the

1 United States government, the income of which this state is

2 prohibited from subjecting to a net income tax, to the extent that

3 the loss has been deducted in arriving at federal taxable income.

4 (d) Deduct, to the extent included in federal taxable income,

5 income derived from obligations, or the sale or exchange of

6 obligations, of the United States government which this state is

7 prohibited by law from subjecting to a net income tax, reduced by

8 any interest on indebtedness incurred in carrying the obligations,

9 and by any expenses incurred in the production of such income to

10 the extent that the expenses, including amortizable bond premiums,

11 were deducted in arriving at federal taxable income.

12 (e) Adjustments resulting from the application of section 271.

13 (f) Deduct an adjustment resulting from the allocation and

14 apportionment provisions of chapter 3.

15 **(G) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2005, ADD, TO**

16 **THE EXTENT DEDUCTED IN THE TAX YEAR TO ARRIVE AT FEDERAL TAXABLE**

17 **INCOME, EXPENSES INCURRED IN THE PRODUCTION OF INCOME THAT IS NOT**

18 **TAXABLE UNDER THIS ACT.**

19 (2) The respective shares of an estate or trust and its

20 beneficiaries, including, solely for the purpose of this

21 allocation, nonresident beneficiaries, in the additions and

22 subtractions to taxable income shall be in proportion to their

23 respective shares of distributable net income of the estate or

24 trust as defined in the internal revenue code. If the estate or

25 trust has no distributable net income for the taxable year, the

26 share of each beneficiary in the additions and subtractions shall

27 be in proportion to his share of the estate or trust income for the

1   year, under local law or the terms of the instrument, which is

2   required to be distributed currently and any other amounts of such

3   income distributed in the year. Any balance of the additions and

4   subtractions shall be allocated to the estate or trust. If capital

5   gains and losses are distributed or distributable to a beneficiary

6   or beneficiaries under the internal revenue code, the fiduciary

7   shall advise each beneficiary of his share of the adjustment under

8   section 271. The election or failure to elect under section 271

9   with respect to capital gains and losses taxable to the estate or

10   trust shall not affect the beneficiary's right to elect or not to

11   elect under section 271.

12   (3) An addition or subtraction shall not be made under this

13   section which has the effect of duplicating an item of income or

14   deduction if the taxpayer establishes to the satisfaction of the

15   commissioner that the item is already reflected in federal taxable

16   income. If an addition or subtraction with respect to the sale or

17   exchange of obligations of the United States government proper

18   adjustment, in accordance with rules promulgated by the

19   commissioner, of the deduction for excess of capital gains over

20   capital losses shall be made.