

HOUSE BILL No. 4340

February 18, 2009, Introduced by Reps. Robert Jones, Durhal and Scripps and referred to the Committee on New Economy and Quality of Life.

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending section 30 (MCL 206.30), as amended by 2007 PA 154.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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

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

15 (e) Deduct, to the extent included in adjusted gross income,
16 compensation, including retirement benefits, received for services
17 in the armed forces of the United States.

18 (f) Deduct the following to the extent included in adjusted
19 gross income:

20 (i) Retirement or pension benefits received from a federal
21 public retirement system or from a public retirement system of or
22 created by this state or a political subdivision of this state.

23 (ii) Retirement or pension benefits received from a public
24 retirement system of or created by another state or any of its
25 political subdivisions if the income tax laws of the other state
26 permit a similar deduction or exemption or a reciprocal deduction
27 or exemption of a retirement or pension benefit received from a

1 public retirement system of or created by this state or any of the
2 political subdivisions of this state.

3 (iii) Social security benefits as defined in section 86 of the
4 internal revenue code.

5 (iv) Beginning on and after January 1, 2007, retirement or
6 pension benefits not deductible under subparagraph (i) or
7 subdivision (e) from any other retirement or pension system or
8 benefits from a retirement annuity policy in which payments are
9 made for life to a senior citizen, to a maximum of \$42,240.00 for a
10 single return and \$84,480.00 for a joint return. The maximum
11 amounts allowed under this subparagraph shall be reduced by the
12 amount of the deduction for retirement or pension benefits claimed
13 under subparagraph (i) or subdivision (e) and by the amount of a
14 deduction claimed under subdivision (r). For the 2008 tax year and
15 each tax year after 2008, the maximum amounts allowed under this
16 subparagraph shall be adjusted by the percentage increase in the
17 United States consumer price index for the immediately preceding
18 calendar year. The department shall annualize the amounts provided
19 in this subparagraph as necessary. As used in this subparagraph,
20 "senior citizen" means that term as defined in section 514.

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

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

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

27 (i) Adjustments resulting from the allocation and

1 apportionment provisions of chapter 3.

2 (j) Deduct political contributions as described in section 4
3 of the Michigan campaign finance act, 1976 PA 388, MCL 169.204, or
4 2 USC 431, not in excess of \$50.00 per annum, or \$100.00 per annum
5 for a joint return.

6 (k) Deduct, to the extent included in adjusted gross income,
7 wages not deductible under section 280C of the internal revenue
8 code.

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

11 (i) The amount of payment made under an advance tuition payment
12 contract as provided in the Michigan education trust act, 1986 PA
13 316, MCL 390.1421 to 390.1442.

14 (ii) The amount of payment made under a contract with a private
15 sector investment manager that meets all of the following criteria:

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

20 (B) The contract applies only for a state institution of
21 higher education as defined in the Michigan education trust act,
22 1986 PA 316, MCL 390.1421 to 390.1442, or a community or junior
23 college in Michigan.

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

27 (D) The contract is entered into after either of the

1 following:

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

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

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

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

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

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

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

13 (r) Beginning on and after January 1, 2007, a taxpayer who is
14 a senior citizen may deduct to the extent included in adjusted
15 gross income, interest, dividends, and capital gains received in
16 the tax year not to exceed \$9,420.00 for a single return and
17 \$18,840.00 for a joint return. The maximum amounts allowed under
18 this subdivision shall be reduced by the amount of a deduction
19 claimed for retirement benefits under subdivision (e) or a
20 deduction claimed under subdivision (f)(i), (ii), (iv), or (v). For
21 the 2008 tax year and each tax year after 2008, the maximum amounts
22 allowed under this subdivision shall be adjusted by the percentage
23 increase in the United States consumer price index for the
24 immediately preceding calendar year. The department shall annualize
25 the amounts provided in this subdivision as necessary. As used in
26 this subdivision, "senior citizen" means that term as defined in
27 section 514.

1 (s) 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 act.

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

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

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

19 (u) Deduct the amount calculated under section 30d.

20 (v) 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-

1 96-5161, and CV-97-0461 (E.D. NY), or as a result of any similar
2 action if the income and interest are not commingled in any way
3 with and are kept separate from all other funds and assets of the
4 taxpayer. As used in this subdivision:

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

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

14 (w) Deduct, to the extent not deducted in determining adjusted
15 gross income, both of the following:

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

24 (ii) The amount under section 30f.

25 (x) 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 education savings accounts, not to exceed the total amount deducted

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

10 (y) Deduct, to the extent included in adjusted gross income,
11 the amount of a distribution from individual retirement accounts
12 that qualify under section 408 of the internal revenue code if the
13 distribution is used to pay qualified higher education expenses as
14 that term is defined in the Michigan education savings program act,
15 2000 PA 161, MCL 390.1471 to 390.1486.

16 (z) Deduct, to the extent included in adjusted gross income,
17 an amount equal to the qualified charitable distribution made in
18 the tax year by a taxpayer to a charitable organization. The amount
19 allowed under this subdivision shall be equal to the amount
20 deductible by the taxpayer under section ~~170(e)~~ **170** of the internal
21 revenue code with respect to the qualified charitable distribution
22 in the tax year in which the taxpayer makes the distribution to the
23 qualified charitable organization, reduced by both the amount of
24 the deduction for retirement or pension benefits claimed by the
25 taxpayer under subdivision (f)(i), (ii), (iv), or (v) and by 2 times
26 the total amount of credits claimed under sections 260 and 261 for
27 the tax year. As used in this subdivision, "qualified charitable

1 distribution" means a distribution of assets to a qualified
2 charitable organization by a taxpayer not more than 60 days after
3 the date on which the taxpayer received the assets as a
4 distribution from a retirement or pension plan described in
5 subsection (8)(a). A distribution is to a qualified charitable
6 organization if the distribution is made in any of the following
7 circumstances:

8 (i) To an organization described in section 501(c)(3) of the
9 internal revenue code except an organization that is controlled by
10 a political party, an elected official or a candidate for an
11 elective office.

12 (ii) To a charitable remainder annuity trust or a charitable
13 remainder unitrust as defined in section 664(d) of the internal
14 revenue code; to a pooled income fund as defined in section
15 642(c)(5) of the internal revenue code; or for the issuance of a
16 charitable gift annuity as defined in section 501(m)(5) of the
17 internal revenue code. A trust, fund, or annuity described in this
18 subparagraph is a qualified charitable organization only if no
19 person holds any interest in the trust, fund, or annuity other than
20 1 or more of the following:

21 (A) The taxpayer who received the distribution from the
22 retirement or pension plan.

23 (B) The spouse of an individual described in sub-subparagraph
24 (A).

25 (C) An organization described in section 501(c)(3) of the
26 internal revenue code.

27 (aa) A taxpayer who is a resident tribal member may deduct, to

1 the extent included in adjusted gross income, all nonbusiness
2 income earned or received in the tax year and during the period in
3 which an agreement entered into between the taxpayer's tribe and
4 this state pursuant to section 30c of 1941 PA 122, MCL 205.30c, is
5 in full force and effect. As used in this subdivision:

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

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

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

13 (B) All interest and passive dividends.

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

16 (D) All rents and royalties derived from tangible personal
17 property, to the extent the personal property is utilized within
18 the agreement area.

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

21 (F) Capital gains from the sale or exchange of tangible
22 personal property located within the agreement area at the time of
23 sale.

24 (G) Capital gains from the sale or exchange of intangible
25 personal property.

26 (H) All pension income and benefits including, but not limited
27 to, distributions from a 401(k) plan, individual retirement

1 accounts under section 408 of the internal revenue code, or a
2 defined contribution plan, or payments from a defined benefit plan.

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

5 (J) All gaming winnings.

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

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

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

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

15 (bb) For tax years that begin after December 31, 2006, deduct,
16 to the extent included in adjusted gross income, all or a portion
17 of the gain, as determined under this section, realized from ~~an A~~
18 **TOTAL** initial equity investment of not less than \$100,000.00 made
19 ~~by the taxpayer~~ before December 31, 2009, in a qualified business,
20 **IF THE TAXPAYER'S SHARE OF THE TOTAL INITIAL INVESTMENT IS AT LEAST**
21 **\$25,000.00 AND** if an amount equal to the sum of the taxpayer's
22 basis in the investment as determined under the internal revenue
23 code plus the gain, or a portion of that amount, is reinvested in
24 ~~an A TOTAL~~ equity investment **OF AT LEAST \$100,000.00** in a qualified
25 business within 1 year after the sale or disposition of the
26 investment in the qualified business. If the amount of the
27 **TAXPAYER'S** subsequent investment is less than the sum of the

1 taxpayer's basis from the prior equity investment plus the gain
2 from the prior equity investment, the amount of a deduction under
3 this section shall be reduced by the difference between the sum of
4 the taxpayer's basis from the prior equity investment plus the gain
5 from the prior equity investment and the subsequent investment. As
6 used in this subdivision:

7 (i) "Advanced automotive, manufacturing, and materials
8 technology" means any technology that involves 1 or more of the
9 following:

10 (A) Materials with engineered properties created through the
11 development of specialized process and synthesis technology.

12 (B) Nanotechnology, including materials, devices, or systems
13 at the atomic, molecular, or macromolecular level, with a scale
14 measured in nanometers.

15 (C) Microelectromechanical systems, including devices or
16 systems integrating microelectronics with mechanical parts and a
17 scale measured in micrometers.

18 (D) Improvements to vehicle safety, vehicle performance,
19 vehicle production, or environmental impact, including, but not
20 limited to, vehicle equipment and component parts.

21 (E) Any technology that involves an alternative energy vehicle
22 or its components. "Alternative energy vehicle" means that term as
23 defined in section 2 of the Michigan next energy authority act,
24 2002 PA 593, MCL 207.822.

25 (F) A new technology, device, or system that enhances or
26 improves the manufacturing process of wood, timber, or
27 agricultural-based products.

1 (G) Advanced computing or electronic device technology related
2 to technology described under this subparagraph.

3 (H) Design, engineering, testing, or diagnostics related to
4 technology described under this subparagraph.

5 (I) Product research and development related to technology
6 described under this subparagraph.

7 (ii) "Advanced computing" means any technology used in the
8 design and development of 1 or more of the following:

9 (A) Computer hardware and software.

10 (B) Data communications.

11 (C) Information technologies.

12 (iii) "Alternative energy technology" means applied research or
13 commercialization of new or next generation technology in 1 or more
14 of the following:

15 (A) Alternative energy technology as that term is defined in
16 section 2 of the Michigan next energy authority act, 2002 PA 593,
17 MCL 207.822.

18 (B) Devices or systems designed and used solely for the
19 purpose of generating energy from agricultural crops, residue and
20 waste generated from the production and processing of agricultural
21 products, animal wastes, or food processing wastes, not including a
22 conventional gasoline or diesel fuel engine or a retrofitted
23 conventional gasoline or diesel fuel engine.

24 (C) A new technology, product, or system that permits the
25 utilization of biomass for the production of specialty, commodity,
26 or foundational chemicals or of novel or economical commodity
27 materials through the application of biotechnology that minimizes,

1 complements, or replaces reliance on petroleum for the production.

2 (D) Advanced computing or electronic device technology related
3 to technology described under this subparagraph.

4 (E) Design, engineering, testing, or diagnostics related to
5 technology described under this subparagraph.

6 (F) Product research and development related to a technology
7 described under this subparagraph.

8 (iv) "Competitive edge technology" means 1 or more of the
9 following:

10 (A) Advanced automotive, manufacturing, and materials
11 technology.

12 (B) Alternative energy technology.

13 (C) Homeland security and defense technology.

14 (D) Life sciences technology.

15 (v) "Electronic device technology" means any technology that
16 involves microelectronics, semiconductors, electronic equipment,
17 and instrumentation, radio frequency, microwave, and millimeter
18 electronics; optical and optic-electrical devices; or data and
19 digital communications and imaging devices.

20 (vi) "Homeland security and defense technology" means
21 technology that assists in the assessment of threats or damage to
22 the general population and critical infrastructure, protection of,
23 defense against, or mitigation of the effects of foreign or
24 domestic threats, disasters, or attacks, or support for crisis or
25 response management, including, but not limited to, 1 or more of
26 the following:

27 (A) Sensors, systems, processes, or equipment for

1 communications, identification and authentication, screening,
2 surveillance, tracking, and data analysis.

3 (B) Advanced computing or electronic device technology related
4 to technology described under this subparagraph.

5 (C) Aviation technology including, but not limited to,
6 avionics, airframe design, sensors, early warning systems, and
7 services related to the technology described in this subparagraph.

8 (D) Design, engineering, testing, or diagnostics related to
9 technology described under this subparagraph.

10 (E) Product research and development related to technology
11 described under this subparagraph.

12 (vii) "Life sciences technology" means any technology derived
13 from life sciences intended to improve human health or the overall
14 quality of human life, including, but not limited to, systems,
15 processes, or equipment for drug or gene therapies, biosensors,
16 testing, medical devices or instrumentation with a therapeutic or
17 diagnostic value, a pharmaceutical or other product that requires
18 United States food and drug administration approval or registration
19 prior to its introduction in the marketplace and is a drug or
20 medical device as defined by the federal food, drug, and cosmetic
21 act, 21 USC 301 to 399, or 1 or more of the following:

22 (A) Advanced computing or electronic device technology related
23 to technology described under this subparagraph.

24 (B) Design, engineering, testing, or diagnostics related to
25 technology or the commercial manufacturing of technology described
26 under this subparagraph.

27 (C) Product research and development related to technology

1 described under this subparagraph.

2 (viii) "Life sciences" means science for the examination or
3 understanding of life or life processes, including, but not limited
4 to, all of the following:

5 (A) Bioengineering.

6 (B) Biomedical engineering.

7 (C) Genomics.

8 (D) Proteomics.

9 (E) Molecular and chemical ecology.

10 (F) Biotechnology, including any technology that uses living
11 organisms, cells, macromolecules, microorganisms, or substances
12 from living organisms to make or modify a product for useful
13 purposes. Biotechnology or life sciences do not include any of the
14 following:

15 (I) Activities prohibited under section 2685 of the public
16 health code, 1978 PA 368, MCL 333.2685.

17 (II) Activities prohibited under section 2688 of the public
18 health code, 1978 PA 368, MCL 333.2688.

19 (III) Activities prohibited under section 2690 of the public
20 health code, 1978 PA 368, MCL 333.2690.

21 (IV) Activities prohibited under section 16274 of the public
22 health code, 1978 PA 368, MCL 333.16274.

23 (V) Stem cell research with human embryonic tissue.

24 (ix) "Qualified business" means a business that complies with
25 all of the following:

26 (A) The business is a seed or early stage business as defined
27 in section 3 of the Michigan early stage venture investment act of

1 2003, 2003 PA 296, MCL 125.2233.

2 (B) The business has its headquarters in this state, is
3 domiciled in this state, or has a majority of its employees working
4 a majority of their time in this state.

5 (C) The business has a preinvestment valuation of less than
6 \$10,000,000.00.

7 (D) The business has been in existence less than 5 years. This
8 sub-subparagraph does not apply to a business, the business
9 activity of which is derived from research at an institution of
10 higher education located within this state or an organization
11 exempt from federal taxation under section 501c(3) of the internal
12 revenue code and that is located within this state.

13 (E) The business is engaged only in competitive edge
14 technology.

15 (F) The business is certified by the Michigan strategic fund
16 as meeting the requirements of sub-subparagraphs (A) to (E) at the
17 time of each proposed investment.

18 (2) Except as otherwise provided in subsection (7), a personal
19 exemption of \$2,500.00 multiplied by the number of personal or
20 dependency exemptions allowable on the taxpayer's federal income
21 tax return pursuant to the internal revenue code shall be
22 subtracted in the calculation that determines taxable income.

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

27 (a) \$1,800.00 for each taxpayer and every dependent of the

1 taxpayer who is 65 years of age or older. When a dependent of a
2 taxpayer files an annual return under this act, the taxpayer or
3 dependent of the taxpayer, but not both, may claim the additional
4 exemption allowed under this subdivision. As used in this
5 subdivision and subdivision (c), "dependent" means that term as
6 defined in section 30e.

7 (b) \$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 act, the taxpayer or dependent of the
14 taxpayer, but not both, may claim the additional exemption allowed
15 under this subdivision.

16 (c) \$1,800.00 if the taxpayer's return includes unemployment
17 compensation that amounts to 50% or more of adjusted gross income.

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

24 (i) "Qualified disabled veteran" means a veteran with a
25 service-connected disability.

26 (ii) "Service-connected disability" means a disability incurred
27 or aggravated in the line of duty in the active military, naval, or

1 air service as described in 38 USC 101(16).

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

6 (4) An individual with respect to whom a deduction under
7 section 151 of the internal revenue code is allowable to another
8 federal taxpayer during the tax year is not considered to have an
9 allowable federal exemption for purposes of subsection (2), but may
10 subtract \$1,500.00 in the calculation that determines taxable
11 income for a tax year.

12 (5) A nonresident or a part-year resident is allowed that
13 proportion of an exemption or deduction allowed under subsection
14 (2), (3), or (4) that the taxpayer's portion of adjusted gross
15 income from Michigan sources bears to the taxpayer's total adjusted
16 gross income.

17 (6) In calculating taxable income, a taxpayer shall not
18 subtract from adjusted gross income the amount of prizes won by the
19 taxpayer under the McCauley-Traxler-Law-Bowman-McNeely lottery act,
20 1972 PA 239, MCL 432.1 to 432.47.

21 (7) For each tax year, the personal exemption allowed under
22 subsection (2) shall be adjusted by multiplying the exemption for
23 the tax year beginning in 1997 by a fraction, the numerator of
24 which is the United States consumer price index for the state
25 fiscal year ending in the tax year prior to the tax year for which
26 the adjustment is being made and the denominator of which is the
27 United States consumer price index for the 1995-96 state fiscal

1 year. The resultant product shall be rounded to the nearest \$100.00
2 increment. The personal exemption for the tax year shall be
3 determined by adding \$200.00 to that rounded amount. As used in
4 this section, "United States consumer price index" means the United
5 States consumer price index for all urban consumers as defined and
6 reported by the United States department of labor, bureau of labor
7 statistics. For each tax year, the exemptions allowed under
8 subsection (3) shall be adjusted by multiplying the exemption
9 amount under subsection (3) for the tax year by a fraction, the
10 numerator of which is the United States consumer price index for
11 the state fiscal year ending the tax year prior to the tax year for
12 which the adjustment is being made and the denominator of which is
13 the United States consumer price index for the 1998-1999 state
14 fiscal year. The resultant product shall be rounded to the nearest
15 \$100.00 increment.

16 (8) As used in subsection (1)(f), "retirement or pension
17 benefits" means distributions from all of the following:

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

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

23 (ii) Individual retirement accounts that qualify under section
24 408 of the internal revenue code if the distributions are not made
25 until the participant has reached 59-1/2 years of age, except in
26 the case of death, disability, or distributions described by
27 section 72(t)(2)(A)(iv) of the internal revenue code.

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

5 (iv) Distributions from a 401(k) plan attributable to employee
6 contributions mandated by the plan or attributable to employer
7 contributions.

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

10 (i) Plans of the United States, state governments other than
11 this state, and political subdivisions, agencies, or
12 instrumentalities of this state.

13 (ii) Plans maintained by a church or a convention or
14 association of churches.

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

18 (c) Retirement or pension benefits received by a surviving
19 spouse if those benefits qualified for a deduction prior to the
20 decedent's death. Benefits received by a surviving child are not
21 deductible.

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

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

27 (A) Deferred compensation plans under section 457 of the

1 internal revenue code.

2 (B) Distributions from plans under section 401(k) of the
3 internal revenue code other than plans described in subdivision
4 (a) (iv) .

5 (C) Distributions from plans under section 403(b) of the
6 internal revenue code other than plans described in subdivision
7 (a) (iii) .

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

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