

HOUSE BILL NO. 4781

June 26, 2019, Introduced by Rep. Rabhi and referred to the Committee on Tax Policy.

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending sections 30, 623, and 695 (MCL 206.30, 206.623, and
206.695), section 30 as amended by 2018 PA 589, section 623 as
amended by 2014 PA 13, and section 695 as added by 2011 PA 38, and
by adding sections 254 and 675 and part 4.



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.

10 (b) Add taxes on or measured by income **including the**
11 **taxpayer's direct or indirect allocated share of taxes paid by a**
12 **flow-through entity under part 4** to the extent the taxes have been
13 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:

28 (i) Compensation, including retirement or pension benefits,



1 received for services in the Armed Forces of the United States.

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

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

6 (f) Deduct the following to the extent included in adjusted
7 gross income ~~subject to the limitations and restrictions set forth~~
8 **unless otherwise elected** in subsection (9):

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

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

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

21 (iv) Beginning on and after January 1, 2007, retirement or
22 pension benefits not deductible under subparagraph (i) or
23 subdivision (e) from any other retirement or pension system or
24 benefits from a retirement annuity policy in which payments are
25 made for life to a senior citizen, to a maximum of \$42,240.00 for a
26 single return and \$84,480.00 for a joint return. The maximum
27 amounts allowed under this subparagraph shall be reduced by the
28 amount of the deduction for retirement or pension benefits claimed
29 under subparagraph (i) or subdivision (e) and by the amount of a



deduction claimed under subdivision (p). For the 2008 tax year and each tax year after 2008, the maximum amounts allowed under this subparagraph shall be adjusted by the percentage increase in the United States Consumer Price Index for the immediately preceding calendar year. The department shall annualize the amounts provided in this subparagraph as necessary. ~~As used in this subparagraph, "senior citizen" means that term as defined in section 514.~~

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

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

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

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

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

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

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

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

(A) The contract is certified and approved by the board of directors of the Michigan education trust to provide equivalent benefits and rights to purchasers and beneficiaries as an advance



1 tuition payment contract as described in subparagraph (ii).

2 (B) The contract applies only for a state institution of
3 higher education as defined in the Michigan education trust act,
4 1986 PA 316, MCL 390.1421 to 390.1442, or a community or junior
5 college in Michigan.

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

9 (D) The contract is entered into after either of the
10 following:

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

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

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

28 (l) Deduct from the taxable income of a purchaser the amount
29 included as income to the purchaser under the internal revenue code



1 after the advance tuition payment contract entered into under the
2 Michigan education trust act, 1986 PA 316, MCL 390.1421 to
3 390.1442, is terminated because the qualified beneficiary attends
4 an institution of postsecondary education other than either a state
5 institution of higher education or an institution of postsecondary
6 education located outside this state with which a state institution
7 of higher education has reciprocity.

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

11 (n) Deduct a net operating loss deduction for the taxable year
12 as determined under section 172 of the internal revenue code
13 subject to the modifications under section 172(b)(2) of the
14 internal revenue code and subject to the allocation and
15 apportionment provisions of chapter 3 of this part for the taxable
16 year in which the loss was incurred.

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

20 (p) Beginning on and after January 1, 2007, subject to any
21 limitation provided in this subdivision, a taxpayer who is a senior
22 citizen may deduct to the extent included in adjusted gross income,
23 interest, dividends, and capital gains received in the tax year not
24 to exceed \$9,420.00 for a single return and \$18,840.00 for a joint
25 return. The maximum amounts allowed under this subdivision shall be
26 reduced by the amount of a deduction claimed for retirement or
27 pension benefits under subdivision (e) or a deduction claimed under
28 subdivision (f) (i), (ii), (iv), or (v). For the 2008 tax year and each
29 tax year after 2008, the maximum amounts allowed under this



subdivision shall be adjusted by the percentage increase in the United States Consumer Price Index for the immediately preceding calendar year. The department shall annualize the amounts provided in this subdivision as necessary. Beginning January 1, 2012, the deduction under this subdivision is not available to a senior citizen born after 1945. ~~As used in this subdivision, "senior citizen" means that term as defined in section 514.~~

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

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

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

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

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

(s) Deduct, to the extent included in adjusted gross income, any amount, and any interest earned on that amount, received in the tax year by a taxpayer who is a Holocaust victim as a result of a settlement of claims against any entity or individual for any



1 recovered asset pursuant to the German act regulating unresolved
2 property claims, also known as Gesetz zur Regelung offener
3 Vermögensfragen, as a result of the settlement of the action
4 entitled *In re: Holocaust victim assets litigation*, CV-96-4849, CV-
5 96-5161, and CV-97-0461 (E.D. NY), or as a result of any similar
6 action if the income and interest are not commingled in any way
7 with and are kept separate from all other funds and assets of the
8 taxpayer. As used in this subdivision:

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

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

18 (t) Deduct all of the following:

19 (i) To the extent not deducted in determining adjusted gross
20 income, contributions made by the taxpayer in the tax year less
21 qualified withdrawals made in the tax year from education savings
22 accounts, calculated on a per education savings account basis,
23 pursuant to the Michigan education savings program act, 2000 PA
24 161, MCL 390.1471 to 390.1486, not to exceed a total deduction of
25 \$5,000.00 for a single return or \$10,000.00 for a joint return per
26 tax year. The amount calculated under this subparagraph for each
27 education savings account shall not be less than zero.

28 (ii) To the extent included in adjusted gross income, interest
29 earned in the tax year on the contributions to the taxpayer's



1 education savings accounts if the contributions were deductible
2 under subparagraph (i).

3 (iii) To the extent included in adjusted gross income,
4 distributions that are qualified withdrawals from an education
5 savings account to the designated beneficiary of that education
6 savings account.

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

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

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

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



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

3 (B) All interest and passive dividends.

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

6 (D) All rents and royalties derived from tangible personal
7 property, to the extent the personal property is utilized within
8 the agreement area.

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

11 (F) Capital gains from the sale or exchange of tangible
12 personal property located within the agreement area at the time of
13 sale.

14 (G) Capital gains from the sale or exchange of intangible
15 personal property.

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

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

22 (J) All gaming winnings.

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

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

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

29 (C) The individual's principal place of residence is located



1 within the agreement area as designated in the agreement under sub-
2 subparagraph (B).

3 (w) For tax years beginning after December 31, 2011, eliminate
4 all of the following:

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

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

9 (x) For tax years that begin after December 31, 2015, deduct
10 all of the following:

11 (i) To the extent not deducted in determining adjusted gross
12 income, contributions made by the taxpayer in the tax year less
13 qualified withdrawals made in the tax year from an ABLE savings
14 account, pursuant to the Michigan ~~ABLE~~ **achieving a better life**
15 **experience (ABLE)** program act, 2015 PA 160, MCL 206.981 to 206.997,
16 not to exceed a total deduction of \$5,000.00 for a single return or
17 \$10,000.00 for a joint return per tax year. The amount calculated
18 under this subparagraph for an ABLE savings account shall not be
19 less than zero.

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

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

27 (y) Add, to the extent not included in adjusted gross income,
28 the amount of money withdrawn by the taxpayer in the tax year from
29 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~~**achieving a better life experience (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.

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

(2) Except as otherwise provided in subsection (7) and section 30a, a personal exemption of \$3,700.00 multiplied by the number of personal and dependency exemptions 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.

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



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

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

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

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

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

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

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



1 general discharge.

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

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

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

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



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

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

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

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

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

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

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

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

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



1 instrumentalities of this state.

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

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

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

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

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

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

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

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

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

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

29 (9) In determining taxable income under this section, **for a**



1 **person who does not claim a deduction under subsection (1) (e) the**
 2 **following options and the respective** limitations and restrictions
 3 **apply for tax years beginning on and after January 1, 2020:**

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

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

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



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

~~21 (d) Except as otherwise provided under subdivision (c) for a~~
~~22 person who was retired as of January 1, 2013, for a person born~~
~~23 after 1952 who has reached the age of 62 through 66 years of age~~
~~24 and who receives retirement or pension benefits from employment~~
~~25 with a governmental agency that was not covered by the federal~~
~~26 social security act, chapter 532, 49 Stat 620, the sum of the~~
~~27 deductions under subsection (1) (f) (i), (ii), and (iv) is limited to~~
~~28 \$15,000.00 for a single return and, except as otherwise provided~~
~~29 under this subdivision, \$15,000.00 for a joint return. If both~~



~~spouses filing a joint return receive retirement or pension benefits from employment with a governmental agency that was not covered by the federal social security act, chapter 532, 49 Stat 620, the sum of the deductions under subsection (1)(f)(i), (ii), and (iv) is limited to \$30,000.00 for a joint return.~~

~~(c) (e) Except as otherwise provided under subdivision (e) or (d), for (b), a person born after 1952, the deduction under subsection (1)(f)(i), (ii), or (iv) does not apply. When that person reaches who has reached the age of 67, that person is eligible for may elect to claim a deduction of \$20,000.00 for a single return and \$40,000.00 for a joint return, which deduction is available against all types of income and is not restricted to income from retirement or pension benefits. If a A person takes who elects to claim the unrestricted deduction of \$20,000.00 for a single return and \$40,000.00 for a joint return, that person shall not take the deduction under subsection (1)(f)(iii) and shall not take the personal exemption under subsection (2). That person may elect not to take the deduction of \$20,000.00 for a single return and \$40,000.00 for a joint return and elect to take the deduction under subsection (1)(f)(iii) and the personal exemption under subsection (2) if that election would reduce that person's tax liability. A person who takes the deduction under subsection (1)(e) is not eligible for the unrestricted deduction of \$20,000.00 for a single return and \$40,000.00 for a joint return under this subdivision. under this subdivision is not eligible for the deductions under subsection (1)(f)(i), (ii), (iii), and (iv) and shall not claim the personal exemption under subsection (2).~~

~~(d) (f) For a joint return, the options and the respective limitations and restrictions in this subsection shall be applied~~



1 based on the age of the older spouse filing the joint return.

2 (10) As used in this section:

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

5 (b) "Senior citizen" means that term as defined in section
6 514.

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

11 **Sec. 254. (1) For tax years beginning on and after January 1,**
12 **2020, a taxpayer who is a direct or indirect member of a flow-**
13 **through entity that filed a return and paid the tax imposed under**
14 **part 4 may claim a credit against the tax imposed under this part**
15 **in an amount equal to the taxpayer's allocated share of the tax**
16 **levied and imposed under part 4 for the tax year ending on or**
17 **within the taxpayer's same tax year multiplied by a fraction, the**
18 **numerator of which is the rate at which tax is imposed for that tax**
19 **year under section 51 and the denominator of which is the rate at**
20 **which tax is imposed for that tax year under section 755.**

21 (2) For tax years beginning on and after January 1, 2020, a
22 taxpayer that is an estate or trust, may claim a credit against the
23 tax imposed by this part in an amount determined by multiplying the
24 amount calculated under subsection (1) by a fraction, the numerator
25 of which is the allocated share of flow-through income that is
26 retained by the estate or trust and the denominator of which is the
27 total allocated share of flow-through income.

28 (3) If the credit allowed under this section exceeds the tax
29 liability of the taxpayer for the tax year, that portion of the



1 credit that exceeds the tax liability must be refunded.

2 (4) As used in this section, "flow-through income" means that
3 term as defined in section 753.

4 Sec. 623. (1) Except as otherwise provided in this part, there
5 is levied and imposed a corporate income tax on every taxpayer with
6 business activity within this state or ownership interest or
7 beneficial interest in a flow-through entity that has business
8 activity in this state unless prohibited by 15 USC 381 to 384. The
9 corporate income tax is imposed on the corporate income tax base,
10 after allocation or apportionment to this state, at the ~~rate of~~
11 ~~6.0%.~~**following rates:**

12 (a) Through the 2019 tax year, 6.0%.

13 (b) For the 2020 tax year and each tax year after 2020, 8.5%.

14 (2) The corporate income tax base means a taxpayer's business
15 income subject to the following adjustments, before allocation or
16 apportionment, and the adjustment in subsection (4) after
17 allocation or apportionment:

18 (a) Add interest income and dividends derived from obligations
19 or securities of states other than this state, in the same amount
20 that was excluded from federal taxable income, less the related
21 portion of expenses not deducted in computing federal taxable
22 income because of sections 265 and 291 of the internal revenue
23 code.

24 (b) Add all taxes on or measured by net income including the
25 tax imposed under this part **and the taxpayer's direct or indirect**
26 **share of taxes paid by a flow-through entity under part 4,** to the
27 extent that the taxes were deducted in arriving at federal taxable
28 income.

29 (c) Add any carryback or carryover of a net operating loss to



1 the extent deducted in arriving at federal taxable income.

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

8 (e) Except as otherwise provided under this subdivision, to
9 the extent deducted in arriving at federal taxable income, add any
10 royalty, interest, or other expense paid to a person related to the
11 taxpayer by ownership or control for the use of an intangible asset
12 if the person is not included in the taxpayer's unitary business
13 group. The addition of any royalty, interest, or other expense
14 described under this subdivision is not required to be added if the
15 taxpayer can demonstrate that the transaction has a nontax business
16 purpose, is conducted with arm's-length pricing and rates and terms
17 as applied in accordance with sections 482 and 1274(d) of the
18 internal revenue code, and 1 of the following is true:

19 (i) The transaction is a pass through of another transaction
20 between a third party and the related person with comparable rates
21 and terms.

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

25 (iii) An addition would be unreasonable as determined by the
26 state treasurer.

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



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

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

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

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

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

11 (i) Income derived from a mineral to the extent included in
12 federal taxable income.

13 (ii) Expenses related to the income deductible under
14 subparagraph (i) to the extent deducted in arriving at federal
15 taxable income.

16 (3) For purposes of subsection (2), the business income of a
17 unitary business group is the sum of the business income of each
18 person included in the unitary business group less any items of
19 income and related deductions arising from transactions including
20 dividends between persons included in the unitary business group.

21 (4) Deduct any available business loss incurred after December
22 31, 2011. As used in this subsection, "business loss" means a
23 negative business income taxable amount after allocation or
24 apportionment. For purposes of this subsection, a taxpayer that
25 acquires the assets of another corporation in a transaction
26 described under section 381(a)(1) or (2) of the internal revenue
27 code may deduct any business loss attributable to that distributor
28 or transferor corporation. The business loss shall be carried
29 forward to the year immediately succeeding the loss year as an



1 offset to the allocated or apportioned corporate income tax base,
2 then successively to the next 9 taxable years following the loss
3 year or until the loss is used up, whichever occurs first.

4 (5) As used in this section, "oil and gas" means oil and gas
5 that is subject to severance tax under 1929 PA 48, MCL 205.301 to
6 205.317.

7 **Sec. 675. (1) For tax years beginning on and after January 1,**
8 **2020, a taxpayer who is a direct or indirect member of a flow-**
9 **through entity that filed a return and paid the tax imposed under**
10 **part 4 may claim a credit against the tax imposed under this part**
11 **in an amount equal to the taxpayer's allocated share of the tax**
12 **levied and imposed under part 4 for the tax year ending on or**
13 **within the taxpayer's same tax year multiplied by a fraction, the**
14 **numerator of which is the rate at which tax is imposed for that tax**
15 **year under section 623 and the denominator of which is the rate at**
16 **which tax is imposed for the tax year under section 755.**

17 (2) If the credit allowed under this section exceeds the tax
18 liability of the taxpayer for the tax year, that portion of the
19 credit that exceeds the tax liability must be refunded.

20 **Sec. 695. (1) Beginning October 1, 2020 and each October 1**
21 **thereafter, from the tax levied under this part 29.4% of the**
22 **revenue collected shall be deposited into the state treasury to the**
23 **credit of the fixing Michigan roads fund created in section 27 of**
24 **1951 PA 51, MCL 247.676.**

25 (2) The balance of the revenue collected under this part **after**
26 **the distribution under subsection (1)** shall be distributed to the
27 general fund.

28 **PART 4**

29 **CHAPTER 18**



1 Sec. 751. For the purposes of this part, the words, terms, and
2 phrases used in this part and not defined differently in this
3 chapter shall have the same meaning as used and defined in part 1.

4 Sec. 753. (1) "Flow-through entity" means an entity that for
5 the tax year is treated as an S corporation under sections 1361 to
6 1379 of the internal revenue code, a general partnership, a limited
7 partnership, a limited liability partnership, or a limited
8 liability company, that for the tax year is not taxed as a
9 corporation for federal income tax purposes. Flow-through entity
10 does not include any entity disregarded for federal income tax
11 purposes, a publicly traded partnership as defined under section
12 7704 of the internal revenue code, or a financial institution or an
13 insurance company, as defined in part 2.

14 (2) "Flow-through income" means the separately and
15 nonseparately computed items of federal income and deductions, as
16 described in section 702(a) of the internal revenue code with
17 respect to a partnership or section 1366 of the internal revenue
18 code with respect to an S corporation, of the flow-through entity.

19 (3) "Member" means a shareholder of an S corporation, a
20 partner in a general partnership, a limited partnership, or a
21 limited liability partnership, or a member of a limited liability
22 company.

23 (4) "Taxable income" means the flow-through income of the
24 taxpayer subject to the following adjustments under this
25 subsection:

26 (a) Add gross interest income and dividends derived from
27 obligations or securities of states other than Michigan that are
28 identified as tax-exempt interest income that were not included as
29 items of flow-through income, less related expenses that would not



1 be deductible under section 265(a)(1) of the internal revenue code.

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

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

14 (d) Add charitable contributions to the extent included in
15 flow-through income.

16 (e) Adjustments resulting from the allocation and
17 apportionment provisions of chapter 3.

18 (f) Add all taxes on or measured by net income including the
19 tax imposed under this part to the extent that the taxes were
20 deducted in arriving at flow-through income.

21 (g) Deduct guaranteed payments, to the extent included in
22 flow-through income, if the payments were for services rendered by
23 a member who is an individual.

24 (h) Deduct, to the extent included in flow-through income, the
25 following:

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

28 (ii) The amount of a refund received in the tax year based on
29 taxes paid under the city income tax act, 1964 pa 284, MCL 141.501



1 to 141.787.

2 (i) Eliminate the following:

3 (i) Income from producing oil and gas to the extent included in
4 flow-through income.

5 (ii) Expenses of producing oil and gas that were deducted in
6 arriving at flow-through income.

7 (iii) Income derived from a mineral to the extent included in
8 flow-through income, if the taxpayer is a qualified taxpayer.

9 (iv) Expenses related to the income derived from a mineral that
10 were deducted in arriving at flow-through income, if the taxpayer
11 is a qualified taxpayer. As used in this subparagraph and
12 subparagraph (iii):

13 (A) "Mineral" means that term as defined in section 2 of the
14 nonferrous metallic minerals extraction severance tax act, 2012 PA
15 410, MCL 211.782.

16 (B) "Qualified taxpayer" means a taxpayer subject to the
17 minerals severance tax levied under the nonferrous metallic
18 minerals extraction severance tax act, 2012 PA 410, MCL 211.781 to
19 211.791.

20 (j) Deduct flow-through income received as a member of another
21 flow-through entity to the extent that it increased flow-through
22 income.

23 (k) Add flow-through income received as a member of another
24 flow-through entity to the extent that it decreased flow-through
25 income.

26 (l) Deduct an amount equal to \$50,000.00 multiplied by the
27 sales factor of the flow-through entity as calculated under section
28 121.

29 (5) "Taxpayer" means a flow-through entity.



1 Sec. 755. (1) For tax years that begin on or after January 1,
2 2020 and each tax year after 2020, there is levied and imposed a
3 flow-through entity tax on every taxpayer. The flow-through entity
4 tax is imposed on the taxpayer's taxable income for the tax year at
5 the rate of 8.5%.

6 (2) Flow-through income shall be apportioned in accordance
7 with the allocation and apportionment provisions in chapter 3.

8 Sec. 757. (1) A taxpayer on a calendar year basis that
9 reasonably expects an annual tax liability to exceed \$800.00 shall
10 pay to the department quarterly installments of estimated tax under
11 this part on or before April 15, June 15, and September 15 of the
12 taxpayer's tax year and January 15 in the following year.

13 (2) A taxpayer not on a calendar year basis that reasonably
14 expects an annual tax liability to exceed \$800.00 shall pay
15 quarterly installments of an estimated tax on or before the
16 appropriate due dates in the taxpayer's fiscal year that correspond
17 to those in the calendar year.

18 (3) Each installment must be equal to 1/4 of the taxpayer's
19 estimated tax under this part. However, for a taxpayer that pays
20 estimated tax for the taxpayer's first tax year of less than 12
21 months, the amount paid must be that fraction of the estimated tax
22 that is obtained by dividing the total amount of estimated tax by
23 the number of payments to be made with respect to the tax year.

24 (4) The amounts paid to the department pursuant to this
25 section by the taxpayer must be applied as a credit against the tax
26 imposed by this part.

27 (5) Payments in excess of the amount levied and imposed under
28 this part must be refunded to the taxpayer. Any overpayment of the
29 tax levied under this part must not be reported to a member of the



1 flow-through entity in accordance with section 763 and must not be
2 claimed as a credit by any member of the flow-through entity under
3 section 254 or section 675.

4 Sec. 759. (1) The taxpayer on or before the due date set for
5 the filing of a return or the payment of the tax, except as
6 otherwise provided in this part, shall file a return in the form
7 and content as prescribed by the department, verify the return, and
8 transmit it, together with a remittance of the amount of the tax,
9 to the department on or before the fifteenth day of the third month
10 after the end of the taxpayer's tax year. The department may
11 require transmission in electronic form.

12 (2) Except as otherwise provided in subsection (3), the
13 department, upon application of the taxpayer and for good cause
14 shown, may extend under prescribed conditions the time for filing
15 the annual or final return required by this part. Before the
16 original due date, the taxpayer shall remit with an application for
17 extension the estimated tax due. In computing the tax due for the
18 tax year, interest at the rate established in, and penalties
19 imposed by, section 23 of 1941 PA 122, MCL 205.23, shall be added
20 to the amount of tax unpaid for the period of the extension. The
21 department may require a tentative return and payment of an
22 estimated tax.

23 (3) If the taxpayer is granted an extension or extensions of
24 time within which to file its federal income tax return for a tax
25 year, the filing of a copy of the extension or extensions
26 automatically extends the due date of the final return under this
27 part for an equivalent period. The taxpayer shall remit with the
28 copy of the extension or extensions the estimated tax due. In
29 computing the tax due for the tax year, interest at the rate

1 established in, and penalties imposed by, section 23 of 1941 pa
2 122, mcl 205.23, shall be added to the amount of tax unpaid for the
3 period of the extension.

4 Sec. 761. (1) A taxpayer may be required to furnish a true and
5 correct copy of any tax return or portion of any tax return and
6 supporting schedules that the taxpayer has filed under the
7 provisions of the internal revenue code.

8 (2) A taxpayer shall file an amended return with the
9 department showing any final alteration in, or modification of, the
10 taxpayer's flow-through income under this part and of any similarly
11 related recomputation of separately and nonseparately stated items
12 of income and deductions under the internal revenue code. If an
13 increase in taxable income results from a federal audit that
14 increases the taxpayer's tax under this part by less than \$500.00,
15 the requirement under this subsection to file an amended return
16 does not apply but the department may assess an increase in tax
17 resulting from the audit. The amended return shall be filed within
18 120 days after the final alteration, modification, or
19 recomputation. If the department finds upon all the facts that an
20 additional tax under this part is owing, the taxpayer shall
21 immediately pay the additional tax. If the department finds that
22 the taxpayer has overpaid the tax imposed by this part, the
23 overpayment must be refunded to the taxpayer. Any adjustment to the
24 amount of tax levied and imposed under this part must be reported
25 to the member of the flow-through entity in accordance with section
26 763.

27 (3) A flow-through entity that is subject to a federal audit
28 under sections 6221 to 6241 of the internal revenue code that
29 results in an increase in flow-through income, shall pay the tax

1 under this part at the applicable rate for the tax year subject to
2 audit plus applicable interest and penalties imposed under 1941 PA
3 122, MCL 205.1 to 205.31.

4 Sec. 763. A flow-through entity, shall provide on or before
5 the due date of the return under this part, or upon the amendment
6 of a return or the adjustment of the tax under this part by the
7 department, to any person to which the provision of information is
8 required by the internal revenue code, all information regarding
9 the allocation and apportionment of the taxable income described
10 under this part and each member's share of the tax levied and
11 imposed under this part that was paid by the taxpayer under this
12 part and any tax levied and imposed under this part on a flow-
13 through entity owned directly or indirectly by the taxpayer.

14 Sec. 765. (1) The tax imposed by this part shall be
15 administered by the department pursuant to 1941 PA 122, MCL 205.1
16 to 205.31, and this part. If a conflict exists between 1941 PA 122,
17 MCL 205.1 to 205.31, and this part, the provisions of this part
18 apply.

19 (2) The department shall prescribe forms for use by taxpayers
20 and may promulgate rules in conformity with this part for the
21 maintenance by taxpayers of records, books, and accounts, and for
22 the computation of the tax, the manner and time of changing or
23 electing accounting methods and of exercising the various options
24 contained in this part, the making of returns, and the
25 ascertainment, assessment, and collection of the tax imposed under
26 this part.

27 (3) The department shall prepare and publish statistics from
28 the records kept to administer the tax imposed by this part that
29 detail the distribution of tax receipts by type of business, legal



1 form of organization, sources of tax base, timing of tax receipts,
2 and types of deductions. The statistics shall not result in the
3 disclosure of information regarding any specific taxpayer.

4 Sec. 767. From the tax levied under this part, the revenue
5 collected shall be distributed as follows:

6 (a) 9.2% to the state school aid fund created in section 11 of
7 article IX of the state constitution of 1963.

8 (b) 32.0% to the general fund.

9 (c) The balance of the revenue collected under this part after
10 the distributions under subdivisions (a) and (b) to the fixing
11 Michigan roads fund created in section 27 of 1951 PA 51, MCL
12 247.676.

13 Enacting section 1. This amendatory act takes effect January
14 1, 2020 and is effective for tax years beginning on and after
15 January 1, 2020.

16 Enacting section 2. This amendatory act does not take effect
17 unless Senate Bill No.____ or House Bill No.4782 (request no.
18 02771'19) of the 100th Legislature is enacted into law.

