

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 6485**

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending sections 30, 36, and 623 (MCL 206.30, 206.36, and
206.623), section 30 as amended by 2018 PA 38, section 36 as
amended by 2011 PA 38, and section 623 as amended by 2014 PA 13.

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

1 because of section 265(a)(1) of the internal revenue code.

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

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

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

16 (e) Deduct, to the extent included in adjusted gross income,
17 the following:

18 (i) Compensation, including retirement or pension benefits,
19 received for services in the Armed Forces of the United States.

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

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

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

27 (i) Retirement or pension benefits received from a federal

1 public retirement system or from a public retirement system of or
2 created by this state or a political subdivision of this state.

3 (ii) Retirement or pension benefits received from a public
4 retirement system of or created by another state or any of its
5 political subdivisions if the income tax laws of the other state
6 permit a similar deduction or exemption or a reciprocal deduction
7 or exemption of a retirement or pension benefit received from a
8 public retirement system of or created by this state or any of the
9 political subdivisions of this state.

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

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

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

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

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

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

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

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

15 (ii) The amount of payment made under an advance tuition
16 payment contract as provided in the Michigan education trust act,
17 1986 PA 316, MCL 390.1421 to 390.1442.

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

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

25 (B) The contract applies only for a state institution of
26 higher education as defined in the Michigan education trust act,
27 1986 PA 316, MCL 390.1421 to 390.1442, or a community or junior

1 college in Michigan.

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

5 (D) The contract is entered into after either of the
6 following:

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

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

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

24 (l) Deduct from the taxable income of a purchaser the amount
25 included as income to the purchaser under the internal revenue code
26 after the advance tuition payment contract entered into under the
27 Michigan education trust act, 1986 PA 316, MCL 390.1421 to

1 390.1442, is terminated because the qualified beneficiary attends
2 an institution of postsecondary education other than either a state
3 institution of higher education or an institution of postsecondary
4 education located outside this state with which a state institution
5 of higher education has reciprocity.

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

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

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

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

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

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

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

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

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

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

26 (s) Deduct, to the extent included in adjusted gross income,
27 any amount, and any interest earned on that amount, received in the

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

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

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

20 (t) Deduct all of the following:

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

1 tax year. The amount calculated under this subparagraph for each
2 education savings account shall not be less than zero.

3 (ii) To the extent included in adjusted gross income, interest
4 earned in the tax year on the contributions to the taxpayer's
5 education savings accounts if the contributions were deductible
6 under subparagraph (i).

7 (iii) To the extent included in adjusted gross income,
8 distributions that are qualified withdrawals from an education
9 savings account to the designated beneficiary of that education
10 savings account.

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

23 (v) A taxpayer who is a resident tribal member may deduct, to
24 the extent included in adjusted gross income, all nonbusiness
25 income earned or received in the tax year and during the period in
26 which an agreement entered into between the taxpayer's tribe and
27 this state pursuant to section 30c of 1941 PA 122, MCL 205.30c, is

1 in full force and effect. As used in this subdivision:

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

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

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

9 (B) All interest and passive dividends.

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

12 (D) All rents and royalties derived from tangible personal
13 property, to the extent the personal property is utilized within
14 the agreement area.

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

17 (F) Capital gains from the sale or exchange of tangible
18 personal property located within the agreement area at the time of
19 sale.

20 (G) Capital gains from the sale or exchange of intangible
21 personal property.

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

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

1 (J) All gaming winnings.

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

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

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

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

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

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

15 (ii) Expenses of producing oil and gas to the extent deducted
16 in arriving at adjusted gross income. **FOR PURPOSES OF THIS**
17 **SUBPARAGRAPH, EXPENSES OF PRODUCING OIL AND GAS INCLUDE COSTS**
18 **ALLOWABLE AS A DEDUCTION FROM THE SALES PRICE OF THE OIL AND GAS IN**
19 **DETERMINING THE GROSS CASH VALUE OF THE OIL AND GAS AT THE WELLHEAD**
20 **FOR THE SEVERANCE TAX, BUT DO NOT INCLUDE ANY OF THE FOLLOWING:**

21 (A) COSTS INCURRED TO PURCHASE, LEASE, OR OTHERWISE ACQUIRE AN
22 OIL AND GAS PROPERTY, WHETHER PROVED OR UNPROVED.

23 (B) COSTS INCURRED FOR EXPLORATION OR DEVELOPMENT OF AN OIL
24 AND GAS PROPERTY, WHETHER PRODUCING OR NONPRODUCING.

25 (C) COSTS INCURRED FOR PROCESSING, TRANSPORTATION, OR
26 MARKETING OF THE OIL AND GAS THAT HAS BEEN PRODUCED FROM AN OIL AND
27 GAS PROPERTY.

1 (D) COSTS INCURRED FOR PLUGGING AND ABANDONMENT OF AN OIL AND
2 GAS PROPERTY.

3 (E) ALLOWANCES FOR DEPLETION THAT DO NOT REDUCE THE ADJUSTED
4 BASIS OF THE OIL AND GAS PROPERTY.

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

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

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

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

22 (y) Add, to the extent not included in adjusted gross income,
23 the amount of money withdrawn by the taxpayer in the tax year from
24 an ABLE savings account, not to exceed the total amount deducted
25 under subdivision (x) in the tax year and all previous tax years,
26 if the withdrawal was not a qualified withdrawal as provided in the
27 Michigan ABLE program act, 2015 PA 160, MCL 206.981 to 206.997.

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

7 (Z) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2018, DEDUCT
8 ALL OF THE FOLLOWING:

9 (i) TO THE EXTENT NOT DEDUCTED IN DETERMINING ADJUSTED GROSS
10 INCOME, CONTRIBUTIONS MADE BY THE TAXPAYER IN THE TAX YEAR LESS
11 QUALIFIED WITHDRAWALS MADE IN THE TAX YEAR FROM A FIRST-TIME HOME
12 BUYER SAVINGS ACCOUNT, PURSUANT TO THE MICHIGAN FIRST-TIME HOME
13 BUYER SAVINGS PROGRAM ACT, NOT TO EXCEED A TOTAL DEDUCTION OF
14 \$5,000.00 FOR A SINGLE RETURN OR \$10,000.00 FOR A JOINT RETURN PER
15 TAX YEAR. THE AMOUNT CALCULATED UNDER THIS SUBPARAGRAPH FOR A
16 FIRST-TIME HOME BUYER SAVINGS ACCOUNT SHALL NOT BE LESS THAN ZERO.
17 A DEDUCTION UNDER THIS SUBSECTION SHALL NOT BE CLAIMED FOR MORE
18 THAN 20 TAX YEARS.

19 (ii) TO THE EXTENT NOT DEDUCTED IN DETERMINING ADJUSTED GROSS
20 INCOME, INTEREST EARNED IN THE TAX YEAR ON THE CONTRIBUTIONS TO THE
21 TAXPAYER'S FIRST-TIME HOME BUYER SAVINGS ACCOUNT IF THE
22 CONTRIBUTIONS WERE DEDUCTIBLE UNDER SUBPARAGRAPH (i) .

23 (iii) TO THE EXTENT INCLUDED IN ADJUSTED GROSS INCOME,
24 DISTRIBUTIONS THAT ARE QUALIFIED WITHDRAWALS FROM A FIRST-TIME HOME
25 BUYER SAVINGS ACCOUNT TO THE QUALIFIED BENEFICIARY OF THAT SAVINGS
26 ACCOUNT.

27 (AA) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2018, ADD, TO

1 THE EXTENT NOT INCLUDED IN ADJUSTED GROSS INCOME, THE AMOUNT OF
2 MONEY WITHDRAWN BY THE TAXPAYER IN THE TAX YEAR FROM A FIRST-TIME
3 HOME BUYER SAVINGS ACCOUNT, NOT TO EXCEED THE TOTAL AMOUNT DEDUCTED
4 UNDER SUBDIVISION (Z) IN THE TAX YEAR AND ALL PREVIOUS TAX YEARS,
5 IF THE WITHDRAWAL WAS NOT A QUALIFIED WITHDRAWAL AS PROVIDED IN THE
6 MICHIGAN FIRST-TIME HOME BUYER SAVINGS PROGRAM ACT. THIS
7 SUBDIVISION DOES NOT APPLY TO WITHDRAWALS THAT ARE LESS THAN THE
8 SUM OF ALL CONTRIBUTIONS MADE TO A FIRST-TIME HOME BUYER SAVINGS
9 ACCOUNT IN ALL PREVIOUS TAX YEARS FOR WHICH NO DEDUCTION WAS
10 CLAIMED UNDER SUBDIVISION (Z), LESS ANY CONTRIBUTIONS FOR WHICH NO
11 DEDUCTION WAS CLAIMED UNDER SUBDIVISION (Z) THAT WERE WITHDRAWN IN
12 ALL PREVIOUS TAX YEARS.

13 (BB) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2018, DEDUCT,
14 TO THE EXTENT INCLUDED IN ADJUSTED GROSS INCOME, COMPENSATION
15 RECEIVED IN THE TAX YEAR PURSUANT TO THE WRONGFUL IMPRISONMENT
16 COMPENSATION ACT, 2016 PA 343, MCL 691.1751 TO 691.1757.

17 (2) Except as otherwise provided in subsection (7) and section
18 30a, a personal exemption of \$3,700.00 multiplied by the number of
19 personal and dependency exemptions shall be subtracted in the
20 calculation that determines taxable income. The number of personal
21 and dependency exemptions allowed shall be determined as follows:

22 (a) Each taxpayer may claim 1 personal exemption. However, if
23 a joint return is not made by the taxpayer and his or her spouse,
24 the taxpayer may claim a personal exemption for the spouse if the
25 spouse, for the calendar year in which the taxable year of the
26 taxpayer begins, does not have any gross income and is not the
27 dependent of another taxpayer.

1 (b) A taxpayer may claim a dependency exemption for each
2 individual who is a dependent of the taxpayer for the tax year.

3 (C) FOR TAX YEARS BEGINNING ON AND AFTER JANUARY 1, 2019, A
4 TAXPAYER MAY CLAIM AN ADDITIONAL EXEMPTION UNDER THIS SUBSECTION IN
5 THE TAX YEAR FOR WHICH THE TAXPAYER HAS A CERTIFICATE OF STILLBIRTH
6 FROM THE DEPARTMENT OF HEALTH AND HUMAN SERVICES AS PROVIDED UNDER
7 SECTION 2834 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.2834.

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

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

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

27 (i) "Qualified disabled veteran" means a veteran with a

1 service-connected disability.

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

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

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

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

19 (6) In calculating taxable income, a taxpayer shall not
20 subtract from adjusted gross income the amount of prizes won by the
21 taxpayer under the McCauley-Traxler-Law-Bowman-McNeely lottery act,
22 1972 PA 239, MCL 432.1 to 432.47.

23 (7) For each tax year beginning on and after January 1, 2013,
24 the personal exemption allowed under subsection (2) shall be
25 adjusted by multiplying the exemption for the tax year beginning in
26 2012 by a fraction, the numerator of which is the United States
27 Consumer Price Index for the state fiscal year ending in the tax

1 year prior to the tax year for which the adjustment is being made
2 and the denominator of which is the United States Consumer Price
3 Index for the 2010-2011 state fiscal year. For the 2022 tax year
4 and each tax year after 2022, the adjusted amount determined under
5 this subsection shall be increased by an additional \$600.00. The
6 resultant product shall be rounded to the nearest \$100.00
7 increment. ~~As used in this section, "United States Consumer Price~~
8 ~~Index" means the United States Consumer Price Index for all urban~~
9 ~~consumers as defined and reported by the United States Department~~
10 ~~of Labor, Bureau of Labor Statistics.~~ For each tax year, the
11 exemptions allowed under subsection (3) shall be adjusted by
12 multiplying the exemption amount under subsection (3) for the tax
13 year by a fraction, the numerator of which is the United States
14 Consumer Price Index for the state fiscal year ending the tax year
15 prior to the tax year for which the adjustment is being made and
16 the denominator of which is the United States Consumer Price Index
17 for the 1998-1999 state fiscal year. The resultant product shall be
18 rounded to the nearest \$100.00 increment.

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

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

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

26 (ii) Individual retirement accounts that qualify under section
27 408 of the internal revenue code if the distributions are not made

1 until the participant has reached 59-1/2 years of age, except in
2 the case of death, disability, or distributions described by
3 section 72(t)(2)(A)(iv) of the internal revenue code.

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

8 (iv) Distributions from a 401(k) plan attributable to employee
9 contributions mandated by the plan or attributable to employer
10 contributions.

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

13 (i) Plans of the United States, state governments other than
14 this state, and political subdivisions, agencies, or
15 instrumentalities of this state.

16 (ii) Plans maintained by a church or a convention or
17 association of churches.

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

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

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

26 (i) Amounts received from a plan that allows the employee to
27 set the amount of compensation to be deferred and does not

1 prescribe retirement age or years of service. These plans include,
2 but are not limited to, all of the following:

3 (A) Deferred compensation plans under section 457 of the
4 internal revenue code.

5 (B) Distributions from plans under section 401(k) of the
6 internal revenue code other than plans described in subdivision
7 (a) (iv) .

8 (C) Distributions from plans under section 403(b) of the
9 internal revenue code other than plans described in subdivision
10 (a) (iii) .

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

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

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

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

20 (b) Except as otherwise provided in subdivision (c), for a
21 person born in 1946 through 1952, the sum of the deductions under
22 subsection (1)(f) (i) , (ii) , and (iv) is limited to \$20,000.00 for a
23 single return and \$40,000.00 for a joint return. After that person
24 reaches the age of 67, the deductions under subsection (1)(f) (i) ,
25 (ii) , and (iv) do not apply and that person is eligible for a
26 deduction of \$20,000.00 for a single return and \$40,000.00 for a
27 joint return, which deduction is available against all types of

1 income and is not restricted to income from retirement or pension
2 benefits. A person who takes the deduction under subsection (1)(e)
3 is not eligible for the unrestricted deduction of \$20,000.00 for a
4 single return and \$40,000.00 for a joint return under this
5 subdivision.

6 (c) Beginning January 1, 2013 for a person born in 1946
7 through 1952 and beginning January 1, 2018 for a person born after
8 1945 who has retired as of January 1, 2013, if that person receives
9 retirement or pension benefits from employment with a governmental
10 agency that was not covered by the federal social security act,
11 chapter 531, 49 Stat 620, the sum of the deductions under
12 subsection (1)(f)(i), (ii), and (iv) is limited to \$35,000.00 for a
13 single return and, except as otherwise provided under this
14 subdivision, \$55,000.00 for a joint return. If both spouses filing
15 a joint return receive retirement or pension benefits from
16 employment with a governmental agency that was not covered by the
17 federal social security act, chapter 531, 49 Stat 620, the sum of
18 the deductions under subsection (1)(f)(i), (ii), and (iv) is
19 limited to \$70,000.00 for a joint return. After that person reaches
20 the age of 67, the deductions under subsection (1)(f)(i), (ii), and
21 (iv) do not apply and that person is eligible for a deduction of
22 \$35,000.00 for a single return and \$55,000.00 for a joint return,
23 or \$70,000.00 for a joint return if applicable, which deduction is
24 available against all types of income and is not restricted to
25 income from retirement or pension benefits. A person who takes the
26 deduction under subsection (1)(e) is not eligible for the
27 unrestricted deduction of \$35,000.00 for a single return and

1 \$55,000.00 for a joint return, or \$70,000.00 for a joint return if
2 applicable, under this subdivision.

3 (d) Except as otherwise provided under subdivision (c) for a
4 person who was retired as of January 1, 2013, for a person born
5 after 1952 who has reached the age of 62 through 66 years of age
6 and who receives retirement or pension benefits from employment
7 with a governmental agency that was not covered by the federal
8 social security act, chapter 532, 49 Stat 620, the sum of the
9 deductions under subsection (1)(f)(i), (ii), and (iv) is limited to
10 \$15,000.00 for a single return and, except as otherwise provided
11 under this subdivision, \$15,000.00 for a joint return. If both
12 spouses filing a joint return receive retirement or pension
13 benefits from employment with a governmental agency that was not
14 covered by the federal social security act, chapter 532, 49 Stat
15 620, the sum of the deductions under subsection (1)(f)(i), (ii),
16 and (iv) is limited to \$30,000.00 for a joint return.

17 (e) Except as otherwise provided under subdivision (c) or (d),
18 for a person born after 1952, the deduction under subsection
19 (1)(f)(i), (ii), or (iv) does not apply. When that person reaches
20 the age of 67, that person is eligible for a deduction of
21 \$20,000.00 for a single return and \$40,000.00 for a joint return,
22 which deduction is available against all types of income and is not
23 restricted to income from retirement or pension benefits. If a
24 person takes the deduction of \$20,000.00 for a single return and
25 \$40,000.00 for a joint return, that person shall not take the
26 deduction under subsection (1)(f)(iii) and shall not take the
27 personal exemption under subsection (2). That person may elect not

1 to take the deduction of \$20,000.00 for a single return and
 2 \$40,000.00 for a joint return and elect to take the deduction under
 3 subsection (1)(f)(iii) and the personal exemption under subsection
 4 (2) if that election would reduce that person's tax liability. A
 5 person who takes the deduction under subsection (1)(e) is not
 6 eligible for the unrestricted deduction of \$20,000.00 for a single
 7 return and \$40,000.00 for a joint return under this subdivision.

8 (f) For a joint return, the limitations and restrictions in
 9 this subsection shall be applied based on the ~~age~~ **DATE OF BIRTH** of
 10 the older spouse filing the joint return. **FOR TAX YEARS BEGINNING**
 11 **AFTER DECEMBER 31, 2018, IF A DEDUCTION UNDER SUBSECTION (1)(F) WAS**
 12 **CLAIMED ON A JOINT RETURN FOR AT LEAST 2 TAX YEARS PRIOR TO THE**
 13 **DEATH OF A SPOUSE AND THE SURVIVING SPOUSE HAS NOT REMARRIED SINCE**
 14 **THE DEATH OF THAT SPOUSE, THE SURVIVING SPOUSE IS ENTITLED TO CLAIM**
 15 **THE DEDUCTION UNDER SUBSECTION (1)(F) IN SUBSEQUENT TAX YEARS**
 16 **SUBJECT TO THE SAME RESTRICTIONS AND LIMITATIONS, FOR A SINGLE**
 17 **RETURN, THAT WOULD HAVE APPLIED BASED ON THE DATE OF BIRTH OF THE**
 18 **OLDER OF THE 2 SPOUSES. HOWEVER, A SURVIVING SPOUSE BORN AFTER 1945**
 19 **WHO HAS REACHED THE AGE OF 67 AND HAS NOT REMARRIED SINCE THE DEATH**
 20 **OF THAT SPOUSE MAY ELECT TO TAKE THE DEDUCTION THAT IS AVAILABLE**
 21 **AGAINST ALL TYPES OF INCOME SUBJECT TO THE SAME LIMITATIONS AND**
 22 **RESTRICTIONS AS PROVIDED UNDER THIS SUBSECTION BASED ON THE**
 23 **SURVIVING SPOUSE'S DATE OF BIRTH INSTEAD OF TAKING THE DEDUCTION**
 24 **ALLOWED UNDER SUBSECTION (1)(F), FOR A SINGLE RETURN, BASED ON THE**
 25 **DATE OF BIRTH OF THE OLDER SPOUSE.**

26 (10) As used in this section: ~~—"oil~~

27 (A) "OIL and gas" means oil and gas subject to severance tax

1 under 1929 PA 48, MCL 205.301 to 205.317.

2 (B) "UNITED STATES CONSUMER PRICE INDEX" MEANS THE UNITED
3 STATES CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS AS DEFINED AND
4 REPORTED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR
5 STATISTICS.

6 Sec. 36. (1) "Taxable income" in the case of a resident estate
7 or trust means federal taxable income as defined in the internal
8 revenue code subject to the following adjustments:

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

14 (b) Add taxes on or measured by income to the extent the taxes
15 have been deducted in arriving at federal taxable income.

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

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

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

2 (f) Deduct an adjustment resulting from the allocation and
3 apportionment provisions of chapter 3.

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

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

8 (ii) Expenses of producing oil and gas to the extent deducted
9 in arriving at federal taxable income. **FOR PURPOSES OF THIS**
10 **SUBPARAGRAPH, EXPENSES OF PRODUCING OIL AND GAS INCLUDE COSTS**
11 **ALLOWABLE AS A DEDUCTION FROM THE SALES PRICE OF THE OIL AND GAS IN**
12 **DETERMINING THE GROSS CASH VALUE OF THE OIL AND GAS AT THE WELLHEAD**
13 **FOR THE SEVERANCE TAX, BUT DO NOT INCLUDE ANY OF THE FOLLOWING:**

14 (A) COSTS INCURRED TO PURCHASE, LEASE, OR OTHERWISE ACQUIRE AN
15 OIL AND GAS PROPERTY, WHETHER PROVED OR UNPROVED.

16 (B) COSTS INCURRED FOR EXPLORATION OR DEVELOPMENT OF AN OIL
17 AND GAS PROPERTY, WHETHER PRODUCING OR NONPRODUCING.

18 (C) COSTS INCURRED FOR PROCESSING, TRANSPORTATION, OR
19 MARKETING OF THE OIL AND GAS THAT HAS BEEN PRODUCED FROM AN OIL AND
20 GAS PROPERTY.

21 (D) COSTS INCURRED FOR PLUGGING AND ABANDONMENT OF AN OIL AND
22 GAS PROPERTY.

23 (E) ALLOWANCES FOR DEPLETION THAT DO NOT REDUCE THE ADJUSTED
24 BASIS OF THE OIL AND GAS PROPERTY.

25 (2) The respective shares of an estate or trust and its
26 beneficiaries, including, solely for the purpose of this
27 allocation, nonresident beneficiaries, in the additions and

1 subtractions to taxable income shall be in proportion to their
2 respective shares of distributable net income of the estate or
3 trust as defined in the internal revenue code. If the estate or
4 trust has no distributable net income for the taxable year, the
5 share of each beneficiary in the additions and subtractions shall
6 be in proportion to his or her share of the estate or trust income
7 for the year, under local law or the terms of the instrument, which
8 is required to be distributed currently and any other amounts of
9 such income distributed in the year. Any balance of the additions
10 and subtractions shall be allocated to the estate or trust. If
11 capital gains and losses are distributed or distributable to a
12 beneficiary or beneficiaries under the internal revenue code, the
13 fiduciary shall advise each beneficiary of his or her share of the
14 adjustment under section 271. The election or failure to elect
15 under section 271 with respect to capital gains and losses taxable
16 to the estate or trust shall not affect the beneficiary's right to
17 elect or not to elect under section 271.

18 (3) An addition or subtraction shall not be made under this
19 section which has the effect of duplicating an item of income or
20 deduction if the taxpayer establishes to the satisfaction of the
21 commissioner that the item is already reflected in federal taxable
22 income. If an addition or subtraction with respect to the sale or
23 exchange of obligations of the United States government proper
24 adjustment, in accordance with rules promulgated by the department,
25 of the deduction for excess of capital gains over capital losses
26 shall be made.

27 (4) As used in this section, "oil and gas" means oil and gas

1 that is subject to **THE** severance tax **LEVIED AND IMPOSED** under 1929
2 PA 48, MCL 205.301 to 205.317.

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

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

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

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

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

26 (d) To the extent included in federal taxable income, deduct
27 dividends and royalties received from persons other than United

1 States persons and foreign operating entities, including, but not
2 limited to, amounts determined under section 78 of the internal
3 revenue code or sections 951 to ~~964~~ **965** of the internal revenue
4 code.

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

16 (i) The transaction is a pass through of another transaction
17 between a third party and the related person with comparable rates
18 and terms.

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

22 (iii) An addition would be unreasonable as determined by the
23 state treasurer.

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

27 (f) To the extent included in federal taxable income, deduct

1 interest income derived from United States obligations.

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

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

6 (ii) Expenses of producing oil and gas to the extent deducted
7 in arriving at federal taxable income. **FOR PURPOSES OF THIS**
8 **SUBPARAGRAPH, EXPENSES OF PRODUCING OIL AND GAS INCLUDE COSTS**
9 **ALLOWABLE AS A DEDUCTION FROM THE SALES PRICE OF THE OIL AND GAS IN**
10 **DETERMINING THE GROSS CASH VALUE OF THE OIL AND GAS AT THE WELLHEAD**
11 **FOR THE SEVERANCE TAX, BUT DO NOT INCLUDE ANY OF THE FOLLOWING:**

12 (A) COSTS INCURRED TO PURCHASE, LEASE, OR OTHERWISE ACQUIRE AN
13 OIL AND GAS PROPERTY, WHETHER PROVED OR UNPROVED.

14 (B) COSTS INCURRED FOR EXPLORATION OR DEVELOPMENT OF AN OIL
15 AND GAS PROPERTY, WHETHER PRODUCING OR NONPRODUCING.

16 (C) COSTS INCURRED FOR PROCESSING, TRANSPORTATION, OR
17 MARKETING OF THE OIL AND GAS THAT HAS BEEN PRODUCED FROM AN OIL AND
18 GAS PROPERTY.

19 (D) COSTS INCURRED FOR PLUGGING AND ABANDONMENT OF AN OIL AND
20 GAS PROPERTY.

21 (E) ALLOWANCES FOR DEPLETION THAT DO NOT REDUCE THE ADJUSTED
22 BASIS OF THE OIL AND GAS PROPERTY.

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

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

27 (ii) Expenses related to the income deductible under

1 subparagraph (i) to the extent deducted in arriving at federal
2 taxable income.

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

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

20 (5) As used in this section, "oil and gas" means oil and gas
21 that is subject to **THE** severance tax **LEVIED AND IMPOSED** under 1929
22 PA 48, MCL 205.301 to 205.317.

23 Enacting section 1. Sections 30(1)(w), 36, and 623 of the
24 income tax act of 1967, 1967 PA 281, MCL 206.30(1)(w), 206.36, and
25 206.623, as amended by this amendatory act, are curative and
26 intended to clarify the original intent of the legislature
27 regarding the application of the deduction for certain income and

1 expenses related to oil and gas as added by 2011 PA 38.
2 Accordingly, sections 30(1)(w), 36, and 623 of the income tax act
3 of 1967, 1967 PA 281, MCL 206.30(1)(w), 206.36, and 206.623, as
4 amended by this amendatory act, are retroactive and effective for
5 all tax years beginning after December 31, 2011.