HOUSE BILL No. 4459

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February 22, 1995, Introduced by Reps. Whyman, McBryde, Porreca and Bullard and referred to the Committee on Tax Policy.

A bill to amend section 30 of Act No. 281 of the Public Acts of 1967, entitled

"Income tax act of 1967,"

as amended by Act No. 268 of the Public Acts of 1994, being section 206.30 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Section 1. Section 30 of Act No. 281 of the Public Acts of 1967, as amended by Act No. 268 of the Public Acts of 1994, being section 206.30 of the Michigan Compiled Laws, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

(*iv*) Before October 1, 1994, retirement or pension benefits from any other retirement or pension system as follows:

(A) For a single return, the sum of not more than $7,500.00.

(B) For a joint return, the sum of not more than $10,000.00.

(*v*) After September 30, 1994, retirement or pension benefits not deductible under subparagraph (*i*) or subdivision (e) from any other retirement or pension system or benefits from a retirement annuity policy in which payments are made for life to a senior citizen, ~~or a surviving spouse of a senior citizen as defined in section 514,~~ to a maximum of the amounts provided for in section 30a. The maximum amounts allowed under this subparagraph shall be reduced by the amount of the deduction for retirement or pension benefits allowed under subparagraph (*i*) or subdivision (e). For the 1995 tax year and each tax year after 1995, the maximum amounts allowed under this subparagraph shall be adjusted by the percentage increase in the Detroit consumer price index for the immediately preceding calendar year. The department shall annualize the amounts provided in this subparagraph and subparagraph (*iv*) as necessary for tax years that end after September 30, 1994. AS USED IN THIS SUBPARAGRAPH, "SENIOR CITIZEN" MEANS THAT TERM AS DEFINED IN SECTION 514.

(*vi*) The amount determined to be the section 22 amount eligible for the elderly and 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 political contributions as described in section 4 of the Michigan campaign finance act, Act No. 388 of the Public Acts of 1976, being section 169.204 of the Michigan Compiled Laws, or section 301 of title III of the federal election campaign act of 1971, Public Law 92-225, 2 U.S.C. 431, not in excess of $50.00 per annum, or $100.00 per annum for a joint return.

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

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

(*i*) The amount of payment made under an advance tuition payment contract as provided in the Michigan education trust act, Act No. 316 of the Public Acts of 1986, being sections 390.1421 to 390.1444 of the Michigan Compiled Laws.

(*ii*) 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 tuition payment contract as described in subparagraph (*i*).

(B) The contract applies only for a state institution of higher education as defined in the Michigan education trust act, Act No. 316 of the Public Acts of 1986, or a community or junior college in Michigan.

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

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

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

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

(m) If an advance tuition payment contract under the Michigan education trust act, Act No. 316 of the Public Acts of 1986, or another contract for which the payment was deductible under subdivision (ℓ) is terminated and the qualified beneficiary under that contract does not attend a university, college, junior or community college, or other institution of higher education, add the amount of a refund received by the taxpayer as a result of that termination or the amount of the deduction taken under subdivision (ℓ) for payment made under that contract, whichever is less.

(n) Deduct from the taxable income of a purchaser the amount included as income to the purchaser under the internal revenue code after the advance tuition payment contract entered into under the Michigan education trust act, Act No. 316 of the Public Acts of 1986, is terminated because the qualified beneficiary attends an institution of postsecondary education other than either a state institution of higher education or an institution of postsecondary education located outside this state with which a state institution of higher education has reciprocity.

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

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

(q) For a tax year beginning after 1986, deduct, to the extent included in adjusted gross income, benefits from a discriminatory self-insurance medical expense reimbursement plan.

(r) After September 30, 1994, a taxpayer who is a senior citizen as defined in section 514 may deduct, to the extent included in adjusted gross income, interest and dividends received in the tax year not to exceed $1,000.00 for a single return or $2,000.00 for a joint return. However, the deduction under this subdivision shall not be taken if the taxpayer takes a deduction for retirement benefits under subdivision (e) or a deduction under subdivision (f)(*i*), (*ii*), (*iv*), or (*v*). For the 1995 tax year and each tax year after 1995, the maximum amounts allowed under this subdivision shall be adjusted by the percentage increase in the Detroit consumer price index for the immediately preceding calendar year. The department shall annualize the amounts provided in this subdivision as necessary for tax years that end after September 30, 1994.

(2) The following personal exemptions multiplied by the number of personal or dependency exemptions allowable on the taxpayer's federal income tax return pursuant to the internal revenue code shall be subtracted from taxable income:

(a) For a tax year beginning during 1987......... $1,600.00.

(b) For a tax year beginning during 1988......... $1,800.00.

(c) For a tax year beginning during 1989......... $2,000.00.

(d) For a tax year beginning after 1989.......... $2,100.00.

(3) A single additional exemption of $1,400.00 for a tax year beginning during 1987, $1,200.00 for a tax year beginning during 1988, $1,000.00 for a tax year beginning during 1989, and $900.00 for a tax year beginning after 1989 is allowed in each of the following circumstances:

(a) The taxpayer is a paraplegic, a quadriplegic, a hemiplegic, a person who is blind as defined in section 504, or a totally and permanently disabled person as defined in section 522.

(b) The taxpayer is a deaf person as defined in section 2 of the deaf persons' interpreters act, Act No. 204 of the Public Acts of 1982, being section 393.502 of the Michigan Compiled Laws.

(c) The taxpayer is 65 years of age or older.

(d) The return includes unemployment compensation that amounts to 50% or more of adjusted gross income.

(4) For a tax year beginning after 1987, an individual with respect to whom a deduction under section 151 of the internal revenue code is allowable to another federal taxpayer during the tax year is not considered to have an allowable federal exemption for purposes of subsection (2), but may deduct $500.00 from taxable income for a tax year beginning in 1988 and $1,000.00 for a tax year beginning after 1988.

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

(6) For a tax year beginning after 1987, in calculating taxable income, a taxpayer shall not subtract from adjusted gross income the amount of prizes won by the taxpayer under the McCauley-Traxler-Law-Bowman-McNeely lottery act, Act No. 239 of the Public Acts of 1972, being sections 432.1 to 432.47 of the Michigan Compiled Laws.

(7) AS USED IN THIS SUBSECTION (1)(F), "RETIREMENT AND PENSION BENEFITS" MEANS ALL OF THE FOLLOWING:

(A) PENSION TRUSTS AND ANNUITY PLANS THAT QUALIFY UNDER SECTION 401(a) OF THE INTERNAL REVENUE CODE, INCLUDING ALL OF THE FOLLOWING:

(*i*) PLANS FOR SELF-EMPLOYED PERSONS, SUCH AS PROPRIETORS AND PARTNERS, COMMONLY KNOWN AS KEOGH OR HR 10 PLANS.

(*ii*) INDIVIDUAL RETIREMENTS PLANS IF DISTRIBUTIONS ARE NOT MADE UNTIL THE PARTICIPANT HAS REACHED 59-1/2 YEARS OF AGE, EXCEPT IN THE CASE OF DEATH OR DISABILITY.

(*iii*) EMPLOYEE ANNUITIES OR TAX-SHELTERED ANNUITIES PURCHASED UNDER SECTION 403(b) OF THE INTERNAL REVENUE CODE BY ORGANIZATIONS EXEMPT UNDER SECTION 501(c)(3) OF THE INTERNAL REVENUE CODE, OR BY PUBLIC SCHOOL SYSTEMS.

(B) PLANS NOT QUALIFIED UNDER THE INTERNAL REVENUE CODE INCLUDING THE FOLLOWING:

(*i*) PLANS OF THE UNITED STATES, STATE GOVERNMENTS OTHER THAN THIS STATE, AND POLITICAL SUBDIVISIONS, AGENCIES, OR INSTRUMENTALITIES OF THIS STATE.

(*ii*) PLANS MAINTAINED BY A CHURCH OR A CONVENTION OR ASSOCIATION OF CHURCHES.

(*iii*) ALL OTHER UNQUALIFIED PENSION TRUSTS THAT PRESCRIBE ELIGIBILITY FOR RETIREMENT AND PREDETERMINE CONTRIBUTIONS AND BENEFITS.