

HOUSE BILL No. 5797

April 29, 1998, Introduced by Rep. Profit and referred to the Committee on Tax Policy.

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending section 30 (MCL 206.30), as amended by 1997 PA 86;
and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 30. (1) "Taxable income" means, for a person other
2 than a corporation, estate, or trust, adjusted gross income as
3 defined in the internal revenue code subject to the following
4 adjustments and the adjustments provided in subsections (2) to
5 (4):

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

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

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

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

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

17 (e) Deduct, to the extent included in adjusted gross income,
18 compensation, including retirement benefits, received for serv-
19 ices in the armed forces of the United States.

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

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

25 (ii) Retirement or pension benefits received from a public
26 retirement system of or created by another state or any of its
27 political subdivisions if the income tax laws of the other state

1 permit a similar deduction or exemption or a reciprocal deduction
2 or exemption of a retirement or pension benefit received from a
3 public retirement system of or created by this state or any of
4 the political subdivisions of this state.

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

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

9 (A) For a single return, the sum of not more than
10 \$7,500.00.

11 (B) For a joint return, the sum of not more than
12 \$10,000.00.

13 (v) After September 30, 1994, retirement or pension benefits
14 not deductible under subparagraph (i) or subdivision (e) from any
15 other retirement or pension system or benefits from a retirement
16 annuity policy in which payments are made for life to a senior
17 citizen, to a maximum of \$30,000.00 for a single return and
18 \$60,000.00 for a joint return. The maximum amounts allowed under
19 this subparagraph shall be reduced by the amount of the deduction
20 for retirement or pension benefits claimed under subparagraph (i)
21 or subdivision (e) and for tax years after the 1996 tax year by
22 the amount of a deduction claimed under subdivision (r). For the
23 1995 tax year and each tax year after 1995, the maximum amounts
24 allowed under this subparagraph shall be adjusted by the percen-
25 tage increase in the United States consumer price index for the
26 immediately preceding calendar year. The department shall
27 annualize the amounts provided in this subparagraph and

1 subparagraph (iv) as necessary for tax years that end after
2 September 30, 1994. As used in this subparagraph, "senior
3 citizen" means that term as defined in section 514.

4 (vi) The amount determined to be the section 22 amount eli-
5 gible for the elderly and THE permanently and totally disabled
6 credit provided in section 22 of the internal revenue code.

7 (g) Adjustments resulting from the application of section
8 271.

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

11 (i) Adjustments resulting from the allocation and apportion-
12 ment provisions of chapter 3.

13 (j) Deduct political contributions as described in section 4
14 of the Michigan campaign finance act, 1976 PA 388, MCL 169.204,
15 or section 301 of title III of the federal election campaign act
16 of 1971, Public Law 92-225, 2 U.S.C. 431, not in excess of \$50.00
17 per annum, or \$100.00 per annum for a joint return.

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

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

23 (i) The amount of payment made under an advance tuition pay-
24 ment contract as provided in the Michigan education trust act,
25 1986 PA 316, MCL 390.1421 to 390.1444.

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

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

8 (B) The contract applies only for a state institution of
9 higher education as defined in the Michigan education trust act,
10 1986 PA 316, MCL 390.1421 to 390.1444, or a community or junior
11 college in Michigan.

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

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

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

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

25 (m) If an advance tuition payment contract under the
26 Michigan education trust act, 1986 PA 316, MCL 390.1421 to
27 390.1444, or another contract for which the payment was

1 deductible under subdivision (1) is terminated and the qualified
2 beneficiary under that contract does not attend a university,
3 college, junior or community college, or other institution of
4 higher education, add the amount of a refund received by the tax-
5 payer as a result of that termination or the amount of the deduc-
6 tion taken under subdivision (1) for payment made under that con-
7 tract, whichever is less.

8 (n) Deduct from the taxable income of a purchaser the amount
9 included as income to the purchaser under the internal revenue
10 code after the advance tuition payment contract entered into
11 under the Michigan education trust act, 1986 PA 316, MCL 390.1421
12 to 390.1444, is terminated because the qualified beneficiary
13 attends an institution of postsecondary education other than
14 either a state institution of higher education or an institution
15 of postsecondary education located outside this state with which
16 a state institution of higher education has reciprocity.

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

20 (p) Deduct a net operating loss deduction for the taxable
21 year as determined under section 172 of the internal revenue code
22 subject to the modifications under section 172(b)(2) of the
23 internal revenue code and subject to the allocation and appor-
24 tionment provisions of chapter 3 of this act for the taxable year
25 in which the loss was incurred.

26 (q) For a tax year beginning after 1986, deduct, to the
27 extent included in adjusted gross income, benefits from a

1 discriminatory self-insurance medical expense reimbursement
2 plan.

3 (r) After September 30, 1994 and before the 1997 tax year, a
4 taxpayer who is a senior citizen may deduct, to the extent
5 included in adjusted gross income, interest and dividends
6 received in the tax year not to exceed \$1,000.00 for a single
7 return or \$2,000.00 for a joint return. However, for tax years
8 before the 1997 tax year, the deduction under this subdivision
9 shall not be taken if the taxpayer takes a deduction for retire-
10 ment benefits under subdivision (e) or a deduction under
11 subdivision (f)(i), (ii), (iv), or (v). For tax years after the
12 1996 tax year, a taxpayer who is a senior citizen may deduct to
13 the extent included in adjusted gross income, interest, divi-
14 dends, and capital gains received in the tax year not to exceed
15 \$3,500.00 for a single return and \$7,000.00 for a joint return
16 for the 1997 tax year, and \$7,500.00 for a single return and
17 \$15,000.00 for a joint return for tax years after the 1997 tax
18 year. For tax years after the 1996 tax year, the maximum amounts
19 allowed under this subdivision shall be reduced by the amount of
20 a deduction claimed for retirement benefits under subdivision (e)
21 or a deduction claimed under subdivision (f)(i), (ii), (iv), or
22 (v). For the 1995 tax year, for the 1996 tax year, and for each
23 tax year after the 1998 tax year, the maximum amounts allowed
24 under this subdivision shall be adjusted by the percentage
25 increase in the United States consumer price index for the imme-
26 diately preceding calendar year. The department shall annualize
27 the amounts provided in this subdivision as necessary for tax

1 years that end after September 30, 1994. As used in this
2 subdivision, "senior citizen" means that term as defined in sec-
3 tion 514.

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

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

8 (ii) The amount of a refund received in the tax year based
9 on taxes paid under the city income tax act, 1964 PA 284, MCL
10 141.501 to 141.787.

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

15 (t) Add the amount paid by the state on behalf of the tax-
16 payer in the tax year to repay the outstanding principal on a
17 loan taken on which the taxpayer defaulted that was to fund an
18 advance tuition payment contract entered into under the Michigan
19 education trust act, 1986 PA 316, MCL 390.1421 to 390.1444, if
20 the cost of the advance tuition payment contract was deducted
21 under subdivision (l) and was financed with a Michigan education
22 trust secured loan.

23 (u) ~~For the 1998 tax year and each tax year after the 1998~~
24 ~~tax year, deduct the amount calculated under section 30d. DEDUCT~~
25 THE "CHILD CARE ACT OF 1997" DEDUCTION PROVIDED UNDER THIS
26 SUBDIVISION. FOR THE 1998 TAX YEAR AND EACH TAX YEAR AFTER THE
27 1998 TAX YEAR, A TAXPAYER MAY DEDUCT THE FOLLOWING AMOUNTS:

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1 (i) AN AMOUNT EQUAL TO \$600.00 MULTIPLIED BY THE NUMBER OF
 2 EXEMPTIONS CLAIMED BY THE TAXPAYER UNDER SUBSECTION (2) IN THE
 3 TAX YEAR FOR DEPENDENTS OF THE TAXPAYER WHO ARE CHILDREN YOUNGER
 4 THAN 7 YEARS OF AGE ON THE LAST DAY OF THE TAX YEAR IN WHICH THE
 5 DEDUCTION UNDER THIS SUBDIVISION IS CLAIMED.

6 (ii) AN AMOUNT EQUAL TO \$300.00 MULTIPLIED BY THE NUMBER OF
 7 EXEMPTIONS CLAIMED BY THE TAXPAYER UNDER SUBSECTION (2) IN THE
 8 TAX YEAR FOR DEPENDENTS OF THE TAXPAYER WHO ARE CHILDREN AND WHO
 9 ARE AT LEAST 7 YEARS OF AGE AND YOUNGER THAN 13 YEARS OF AGE ON
 10 THE LAST DAY OF THE TAX YEAR IN WHICH THE DEDUCTION UNDER THIS
 11 SUBDIVISION IS CLAIMED.

12 (2) The following personal exemptions multiplied by the
 13 number of personal or dependency exemptions allowable on the
 14 taxpayer's federal income tax return pursuant to the internal
 15 revenue code shall be subtracted in the calculation that deter-
 16 mines taxable income:

17 (a) For a tax year beginning during 1987..... \$1,600.00.
 18 (b) For a tax year beginning during 1988..... \$1,800.00.
 19 (c) For a tax year beginning during 1989..... \$2,000.00.
 20 (d) For a tax year beginning after 1989 and before
 21 1995..... \$2,100.00.
 22 (e) For a tax year beginning during 1995 or 1996 \$2,400.00.
 23 (f) Except as otherwise provided in subsection (7),
 24 for a tax year beginning after 1996..... \$2,500.00.

25 (3) A single additional exemption of \$1,400.00 for a tax
 26 year beginning during 1987, \$1,200.00 for a tax year beginning
 27 during 1988, \$1,000.00 for a tax year beginning during 1989, and

1 \$900.00 for a tax year beginning after 1989 shall be subtracted
2 in the calculation that determines taxable income in each of the
3 following circumstances:

4 (a) The taxpayer is a paraplegic, a quadriplegic, a hemiple-
5 gic, a person who is blind as defined in section 504, or a PERSON
6 WHO IS totally and permanently disabled ~~person~~ as defined in
7 section 522.

8 (b) The taxpayer is a deaf person as defined in section 2 of
9 the deaf persons' interpreters act, 1982 PA 204, MCL 393.502.

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

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

13 (4) For a tax year beginning after 1987, an individual with
14 respect to whom a deduction under section 151 of the internal
15 revenue code is allowable to another federal taxpayer during the
16 tax year is not considered to have an allowable federal exemption
17 for purposes of subsection (2), but may subtract \$500.00 in the
18 calculation that determines taxable income for a tax year begin-
19 ning in 1988 and \$1,000.00 for a tax year beginning after 1988.

20 (5) A nonresident or a part-year resident is allowed that
21 proportion of an exemption or deduction allowed under subsection
22 (2), (3), or (4) that the taxpayer's portion of adjusted gross
23 income from Michigan sources bears to the taxpayer's total
24 adjusted gross income.

25 (6) For a tax year beginning after 1987, in calculating tax-
26 able income, a taxpayer shall not subtract from adjusted gross
27 income the amount of prizes won by the taxpayer under the

1 McCauley-Traxler-Law-Bowman-McNeely lottery act, 1972 PA 239, MCL
2 432.1 to 432.47.

3 (7) For each tax year after the 1997 tax year, the personal
4 exemption allowed under subsection (2) shall be adjusted by
5 multiplying the exemption for the tax year beginning in 1997 by a
6 fraction, the numerator of which is the United States consumer
7 price index for the state fiscal year ending in the tax year
8 prior to the tax year for which the adjustment is being made and
9 the denominator of which is the United States consumer price
10 index for the 1995-96 state fiscal year. The resultant product
11 shall be rounded to the nearest \$100.00 increment. The personal
12 exemption for the tax year shall be determined by adding \$200.00
13 to that rounded amount. As used in this section, "United States
14 consumer price index" means the United States consumer price
15 index for all urban consumers as defined and reported by the
16 United States department of labor, bureau of labor statistics.

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

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

22 (i) Plans for self-employed persons, commonly known as Keogh
23 or HR 10 plans.

24 (ii) Individual retirement accounts that qualify under sec-
25 tion 408 of the internal revenue code if the distributions are
26 not made until the participant has reached 59-1/2 years of age,
27 except in the case of death, disability, or distributions

1 described by section ~~72(t)(2)(iv)~~ 72(T)(2)(A)(IV) of the
2 internal revenue code.

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

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

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

12 (i) Plans of the United States, state governments other than
13 this state, and political subdivisions, agencies, or instrumen-
14 talities of this state.

15 (ii) Plans maintained by a church or a convention or associ-
16 ation of churches.

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

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

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

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

1 prescribe retirement age or years of service. These plans
2 include, 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~~
7 ~~subdivision (a)(iv).~~

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

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

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

16 Enacting section 1. Section 30d of the income tax act of
17 1967, 1967 PA 281, MCL 206.30d, is repealed.