

# HOUSE BILL No. 4387

March 1, 2007, Introduced by Reps. Miller and Alma Smith and referred to the Committee on Tax Policy.

A bill to amend 1967 PA 281, entitled  
"Income tax act of 1967,"  
by amending section 36 (MCL 206.36).

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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

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

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

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

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

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

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

16 **(G) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2007, ADD, TO**  
17 **THE EXTENT DEDUCTED IN THE TAX YEAR TO ARRIVE AT FEDERAL TAXABLE**  
18 **INCOME, EXPENSES INCURRED IN THE PRODUCTION OF INCOME THAT IS NOT**  
19 **TAXABLE UNDER THIS ACT.**

20 (2) The respective shares of an estate or trust and its  
21 beneficiaries, including, solely for the purpose of this  
22 allocation, nonresident beneficiaries, in the additions and  
23 subtractions to taxable income shall be in proportion to their  
24 respective shares of distributable net income of the estate or  
25 trust as defined in the internal revenue code. If the estate or  
26 trust has no distributable net income for the taxable year, the  
27 share of each beneficiary in the additions and subtractions shall

1 be in proportion to his share of the estate or trust income for the  
2 year, under local law or the terms of the instrument, which is  
3 required to be distributed currently and any other amounts of such  
4 income distributed in the year. Any balance of the additions and  
5 subtractions shall be allocated to the estate or trust. If capital  
6 gains and losses are distributed or distributable to a beneficiary  
7 or beneficiaries under the internal revenue code, the fiduciary  
8 shall advise each beneficiary of his share of the adjustment under  
9 section 271. The election or failure to elect under section 271  
10 with respect to capital gains and losses taxable to the estate or  
11 trust shall not affect the beneficiary's right to elect or not to  
12 elect under section 271.

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