

HOUSE BILL No. 6485

November 8, 2018, Introduced by Rep. Cole and referred to the Committee on Commerce and Trade.

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

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

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 (2) Except as otherwise provided in subsection (7) and section
8 30a, a personal exemption of \$3,700.00 multiplied by the number of
9 personal and dependency exemptions shall be subtracted in the
10 calculation that determines taxable income. The number of personal
11 and dependency exemptions allowed shall be determined as follows:

12 (a) Each taxpayer may claim 1 personal exemption. However, if
13 a joint return is not made by the taxpayer and his or her spouse,
14 the taxpayer may claim a personal exemption for the spouse if the
15 spouse, for the calendar year in which the taxable year of the
16 taxpayer begins, does not have any gross income and is not the
17 dependent of another taxpayer.

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

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

24 (a) \$1,800.00 for each taxpayer and every dependent of the
25 taxpayer who is a deaf person as defined in section 2 of the deaf
26 persons' interpreters act, 1982 PA 204, MCL 393.502; a paraplegic,
27 a quadriplegic, or a hemiplegic; a person who is blind as defined

1 in section 504; or a person who is totally and permanently disabled
2 as defined in section 522. When a dependent of a taxpayer files an
3 annual return under this part, the taxpayer or dependent of the
4 taxpayer, but not both, may claim the additional exemption allowed
5 under this subdivision.

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

12 (i) "Qualified disabled veteran" means a veteran with a
13 service-connected disability.

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

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

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

26 (5) A nonresident or a part-year resident is allowed that
27 proportion of an exemption or deduction allowed under subsection

1 (2), (3), or (4) that the taxpayer's portion of adjusted gross
2 income from Michigan sources bears to the taxpayer's total adjusted
3 gross income.

4 (6) In calculating taxable income, a taxpayer shall not
5 subtract from adjusted gross income the amount of prizes won by the
6 taxpayer under the McCauley-Traxler-Law-Bowman-McNeely lottery act,
7 1972 PA 239, MCL 432.1 to 432.47.

8 (7) For each tax year beginning on and after January 1, 2013,
9 the personal exemption allowed under subsection (2) shall be
10 adjusted by multiplying the exemption for the tax year beginning in
11 2012 by a fraction, the numerator of which is the United States
12 Consumer Price Index for the state fiscal year ending in the tax
13 year prior to the tax year for which the adjustment is being made
14 and the denominator of which is the United States Consumer Price
15 Index for the 2010-2011 state fiscal year. For the 2022 tax year
16 and each tax year after 2022, the adjusted amount determined under
17 this subsection shall be increased by an additional \$600.00. The
18 resultant product shall be rounded to the nearest \$100.00
19 increment. As used in this section, "United States Consumer Price
20 Index" means the United States Consumer Price Index for all urban
21 consumers as defined and reported by the United States Department
22 of Labor, Bureau of Labor Statistics. For each tax year, the
23 exemptions allowed under subsection (3) shall be adjusted by
24 multiplying the exemption amount under subsection (3) for the tax
25 year by a fraction, the numerator of which is the United States
26 Consumer Price Index for the state fiscal year ending the tax year
27 prior to the tax year for which the adjustment is being made and

1 the denominator of which is the United States Consumer Price Index
2 for the 1998-1999 state fiscal year. The resultant product shall be
3 rounded to the nearest \$100.00 increment.

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

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

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

11 (ii) Individual retirement accounts that qualify under section
12 408 of the internal revenue code if the distributions are not made
13 until the participant has reached 59-1/2 years of age, except in
14 the case of death, disability, or distributions described by
15 section 72(t)(2)(A)(iv) of the internal revenue code.

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

20 (iv) Distributions from a 401(k) plan attributable to employee
21 contributions mandated by the plan or attributable to employer
22 contributions.

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

25 (i) Plans of the United States, state governments other than
26 this state, and political subdivisions, agencies, or
27 instrumentalities of this state.

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

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

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

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

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

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

17 (B) Distributions from plans under section 401(k) of the
18 internal revenue code other than plans described in subdivision

19 (a) (iv) .

20 (C) Distributions from plans under section 403(b) of the
21 internal revenue code other than plans described in subdivision

22 (a) (iii) .

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

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

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

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

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

18 (c) Beginning January 1, 2013 for a person born in 1946
19 through 1952 and beginning January 1, 2018 for a person born after
20 1945 who has retired as of January 1, 2013, if that person receives
21 retirement or pension benefits from employment with a governmental
22 agency that was not covered by the federal social security act,
23 chapter 531, 49 Stat 620, the sum of the deductions under
24 subsection (1)(f)(i), (ii), and (iv) is limited to \$35,000.00 for a
25 single return and, except as otherwise provided under this
26 subdivision, \$55,000.00 for a joint return. If both spouses filing
27 a joint return receive retirement or pension benefits from

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

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

1 and (iv) is limited to \$30,000.00 for a joint return.

2 (e) Except as otherwise provided under subdivision (c) or (d),
3 for a person born after 1952, the deduction under subsection
4 (1)(f)(i), (ii), or (iv) does not apply. When that person reaches
5 the age of 67, that person is eligible for a deduction of
6 \$20,000.00 for a single return and \$40,000.00 for a joint return,
7 which deduction is available against all types of income and is not
8 restricted to income from retirement or pension benefits. If a
9 person takes the deduction of \$20,000.00 for a single return and
10 \$40,000.00 for a joint return, that person shall not take the
11 deduction under subsection (1)(f)(iii) and shall not take the
12 personal exemption under subsection (2). That person may elect not
13 to take the deduction of \$20,000.00 for a single return and
14 \$40,000.00 for a joint return and elect to take the deduction under
15 subsection (1)(f)(iii) and the personal exemption under subsection
16 (2) if that election would reduce that person's tax liability. A
17 person who takes the deduction under subsection (1)(e) is not
18 eligible for the unrestricted deduction of \$20,000.00 for a single
19 return and \$40,000.00 for a joint return under this subdivision.

20 (f) For a joint return, the limitations and restrictions in
21 this subsection shall be applied based on the age of the older
22 spouse filing the joint return.

23 (10) As used in this section, "oil and gas" means oil and gas
24 subject to **THE** severance tax **LEVIED AND IMPOSED** under 1929 PA 48,
25 MCL 205.301 to 205.317.

26 Sec. 36. (1) "Taxable income" in the case of a resident estate
27 or trust means federal taxable income as defined in the internal

1 revenue code subject to the following adjustments:

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

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

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

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

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

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

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

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

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

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

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

11 **(C) COSTS INCURRED FOR PROCESSING, TRANSPORTATION, OR**
12 **MARKETING OF THE OIL AND GAS THAT HAS BEEN PRODUCED FROM AN OIL AND**
13 **GAS PROPERTY.**

14 **(D) COSTS INCURRED FOR PLUGGING AND ABANDONMENT OF AN OIL AND**
15 **GAS PROPERTY.**

16 **(E) ALLOWANCES FOR DEPLETION THAT DO NOT REDUCE THE ADJUSTED**
17 **BASIS OF THE OIL AND GAS PROPERTY.**

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

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

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

20 (4) 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 Sec. 623. (1) Except as otherwise provided in this part, there
24 is levied and imposed a corporate income tax on every taxpayer with
25 business activity within this state or ownership interest or
26 beneficial interest in a flow-through entity that has business
27 activity in this state unless prohibited by 15 USC 381 to 384. The

1 corporate income tax is imposed on the corporate income tax base,
2 after allocation or apportionment to this state, at the rate of
3 6.0%.

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

8 (a) Add interest income and dividends derived from obligations
9 or securities of states other than this state, in the same amount
10 that was excluded from federal taxable income, less the related
11 portion of expenses not deducted in computing federal taxable
12 income because of sections 265 and 291 of the internal revenue
13 code.

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

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

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

25 (e) Except as otherwise provided under this subdivision, to
26 the extent deducted in arriving at federal taxable income, add any
27 royalty, interest, or other expense paid to a person related to the

1 taxpayer by ownership or control for the use of an intangible asset
2 if the person is not included in the taxpayer's unitary business
3 group. The addition of any royalty, interest, or other expense
4 described under this subdivision is not required to be added if the
5 taxpayer can demonstrate that the transaction has a nontax business
6 purpose, is conducted with arm's-length pricing and rates and terms
7 as applied in accordance with sections 482 and 1274(d) of the
8 internal revenue code, and 1 of the following is true:

9 (i) The transaction is a pass through of another transaction
10 between a third party and the related person with comparable rates
11 and terms.

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

15 (iii) An addition would be unreasonable as determined by the
16 state treasurer.

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

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

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

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

26 (ii) Expenses of producing oil and gas to the extent deducted
27 in arriving at federal taxable income. **FOR PURPOSES OF THIS**

SUBPARAGRAPH, EXPENSES OF PRODUCING OIL AND GAS INCLUDE COSTS ALLOWABLE AS A DEDUCTION FROM THE SALES PRICE OF THE OIL AND GAS IN DETERMINING THE GROSS CASH VALUE OF THE OIL AND GAS AT THE WELLHEAD FOR THE SEVERANCE TAX, BUT DO NOT INCLUDE ANY OF THE FOLLOWING:

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

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

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

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

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

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

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

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

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

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

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

16 Enacting section 1. This amendatory act is curative and
17 intended to clarify the original intent of the legislature
18 regarding the application of the deduction for certain income and
19 expenses related to oil and gas as added by 2011 PA 38.
20 Accordingly, this amendatory act is retroactive and effective for
21 all tax years beginning after December 31, 2011.