

**STATE OF MICHIGAN
101ST LEGISLATURE
REGULAR SESSION OF 2021**

Introduced by Reps. Tisdell and Hall

ENROLLED HOUSE BILL No. 4288

AN ACT to amend 1967 PA 281, entitled “An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, reporting, payment, and enforcement by lien and otherwise of taxes on or measured by net income and on certain commercial, business, and financial activities; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal acts and parts of acts,” by amending sections 30 and 623 (MCL 206.30 and 206.623), section 30 as amended by 2020 PA 65 and section 623 as amended by 2014 PA 13, and by adding sections 254 and 675 and part 4.

The People of the State of Michigan enact:

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 under this section:

(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 including any direct or indirect allocated share of taxes paid by a flow-through entity under part 4.

(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, the following:

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

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

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

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

(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) Beginning on and after January 1, 2007, 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, to a maximum of \$42,240.00 for a single return and \$84,480.00 for a joint return. The maximum amounts allowed under this subparagraph shall be reduced by the amount of the deduction for retirement or pension benefits claimed under subparagraph (i) or subdivision (e) and by the amount of a deduction claimed under subdivision (p). For the 2008 tax year and each tax year after 2008, the maximum amounts allowed under this subparagraph 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 subparagraph as necessary.

(v) The amount determined to be the section 22 amount eligible for the elderly and the 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 the following payments made by the taxpayer in the tax year:

(i) The amount of a charitable contribution made to the advance tuition payment fund created under section 9 of the Michigan education trust act, 1986 PA 316, MCL 390.1429.

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

(iii) 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 (ii).

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

(k) If an advance tuition payment contract under the Michigan education trust act, 1986 PA 316, MCL 390.1421 to 390.1442, or another contract for which the payment was deductible under subdivision (j) 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 (j) for payment made under that contract, whichever is less.

(l) 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, 1986 PA 316, MCL 390.1421 to 390.1442, 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.

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

(n) Deduct a net operating loss deduction for the taxable year as determined under 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 for the taxable year in which the loss was incurred.

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

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

(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 and any direct or indirect allocated share of a refund received by a flow-through entity under part 4.

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

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

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

(t) Deduct all of the following:

(i) To the extent not deducted in determining adjusted gross income, contributions made by the taxpayer in the tax year less qualified withdrawals made in the tax year from education savings accounts, calculated on a per education savings account basis, pursuant to the Michigan education savings program act, 2000 PA 161, MCL 390.1471 to 390.1486, not to exceed a total deduction of \$5,000.00 for a single return or \$10,000.00 for a joint return per tax year. The amount calculated under this subparagraph for each education savings account shall not be less than zero.

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

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

(u) Add, to the extent not included in adjusted gross income, the amount of money withdrawn by the taxpayer in the tax year from education savings accounts, not to exceed the total amount deducted under subdivision (t) in the tax year and all previous tax years, if the withdrawal was not a qualified withdrawal as provided in the

Michigan education savings program act, 2000 PA 161, MCL 390.1471 to 390.1486. This subdivision does not apply to withdrawals that are less than the sum of all contributions made to an education savings account in all previous tax years for which no deduction was claimed under subdivision (t), less any contributions for which no deduction was claimed under subdivision (t) that were withdrawn in all previous tax years.

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

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

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

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

(B) All interest and passive dividends.

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

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

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

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

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

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

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

(J) All gaming winnings.

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

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

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

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

(w) Eliminate all of the following:

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

(ii) Expenses of producing oil and gas to the extent deducted in arriving at adjusted gross income.

(x) Deduct all of the following:

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

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

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

(y) Add, to the extent not included in adjusted gross income, the amount of money withdrawn by the taxpayer in the tax year from an ABLE savings account, not to exceed the total amount deducted under subdivision (x) in the tax year and all previous tax years, if the withdrawal was not a qualified withdrawal as provided in the Michigan achieving a better life experience (ABLE) program act, 2015 PA 160, MCL 206.981 to 206.997. This subdivision does not apply to withdrawals that are less than the sum of all contributions made to an ABLE savings account in all previous tax years for which no deduction was claimed under subdivision (x), less any contributions for which no deduction was claimed under subdivision (x) that were withdrawn in all previous tax years.

(z) For tax years that begin after December 31, 2018, deduct, to the extent included in adjusted gross income, compensation received in the tax year pursuant to the wrongful imprisonment compensation act, 2016 PA 343, MCL 691.1751 to 691.1757.

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

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

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

(c) For tax years beginning on and after January 1, 2019, a taxpayer may claim an additional exemption under this subsection in the tax year for which the taxpayer has a certificate of stillbirth from the department of health and human services as provided under section 2834 of the public health code, 1978 PA 368, MCL 333.2834.

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

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

(b) \$250.00 for each taxpayer and every dependent of the taxpayer who is a qualified disabled veteran. When a dependent of a taxpayer files an annual return under this part, the taxpayer or dependent of the taxpayer, but not both, may claim the additional exemption allowed under this subdivision. As used in this subdivision:

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

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

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

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

(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) 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, 1972 PA 239, MCL 432.1 to 432.47.

(7) For each tax year beginning on and after January 1, 2013, the personal exemption allowed under subsection (2) shall be adjusted by multiplying the exemption for the tax year beginning in 2012 by a fraction, the numerator of which is the United States Consumer Price Index for the state fiscal year ending in the tax year prior to the tax year for which the adjustment is being made and the denominator of which is the United States Consumer Price Index for the 2010-2011 state fiscal year. For the 2022 tax year and each tax year after 2022, the adjusted amount determined under this subsection shall be increased by an additional \$600.00. The resultant product shall be rounded to the nearest \$100.00 increment. For each tax year, the exemptions allowed under subsection (3) shall be adjusted by multiplying the exemption amount under subsection (3) for the tax year by a fraction, the numerator of which is the United States Consumer Price Index for the state fiscal year ending in the tax year prior to the tax year for which the adjustment is being made and the denominator of which is the United States Consumer Price Index for the 1998-1999 state fiscal year. The resultant product shall be rounded to the nearest \$100.00 increment.

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

(a) Except as provided in subdivision (d), qualified 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, commonly known as Keogh or HR10 plans.

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

(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.

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

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

(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 plans that prescribe eligibility for retirement and predetermine contributions and benefits if the distributions are made from a pension trust.

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

(d) Retirement and pension benefits do not include:

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

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

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

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

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

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

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

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

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

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

(d) Except as otherwise provided under subdivision (c) for a person who was retired as of January 1, 2013, for a person born after 1952 who has reached the age of 62 through 66 years of age and who receives retirement or pension benefits from employment with a governmental agency that was not covered by the federal social security act, chapter 531, 49 Stat 620, the sum of the deductions under subsection (1)(f)(i), (ii), and (iv) is limited to

\$15,000.00 for a single return and, except as otherwise provided under this subdivision, \$15,000.00 for a joint return. If both spouses filing a joint return receive retirement or pension benefits from employment with a governmental agency that was not covered by the federal social security act, chapter 531, 49 Stat 620, the sum of the deductions under subsection (1)(f)(i), (ii), and (iv) is limited to \$30,000.00 for a joint return.

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

(f) For a joint return, the limitations and restrictions in this subsection shall be applied based on the date of birth of the older spouse filing the joint return. If a deduction under subsection (1)(f) was claimed on a joint return for a tax year in which a spouse died and the surviving spouse has not remarried since the death of that spouse, the surviving spouse is entitled to claim the deduction under subsection (1)(f) in subsequent tax years subject to the same restrictions and limitations, for a single return, that would have applied based on the date of birth of the older of the 2 spouses. For tax years beginning after December 31, 2019, a surviving spouse born after 1945 who has reached the age of 67 and has not remarried since the death of that spouse may elect to take the deduction that is available against all types of income subject to the same limitations and restrictions as provided under this subsection based on the surviving spouse's date of birth instead of taking the deduction allowed under subsection (1)(f), for a single return, based on the date of birth of the older spouse.

(10) As used in this section:

(a) "Oil and gas" means oil and gas subject to severance tax under 1929 PA 48, MCL 205.301 to 205.317.

(b) "Senior citizen" means that term as defined in section 514.

(c) "United States Consumer Price Index" means the United States Consumer Price Index for all urban consumers as defined and reported by the United States Department of Labor, Bureau of Labor Statistics.

Sec. 254. (1) Except as otherwise provided under this section, for tax years beginning on and after January 1, 2021, a taxpayer who is either a member of a flow-through entity that elects to file a return and pay the tax imposed under part 4 or a direct or indirect member of another flow-through entity that elects to file a return and pay the tax imposed under part 4 may claim a credit against the tax imposed under this part in an amount equal to the member's allocated share of the tax as reported to the member by the flow-through entity pursuant to section 789(1)(d) for the tax year ending on or within the taxpayer's same tax year. A nonresident estate or trust may claim a credit against the tax imposed under this part in an amount equal to the nonresident estate's or trust's allocated share of the tax as reported to the nonresident estate or trust pursuant to section 789(1)(d) for the tax year ending on or within the taxpayer's same tax year multiplied by a percentage equal to a fraction, the numerator of which is 100 minus the rate imposed under section 51, and the denominator of which is 100.

(2) For a taxpayer that is an estate or trust, the amount of the credit allowed under this section shall be determined by multiplying the amount calculated under subsection (1) by a percentage equal to a fraction, the numerator of which is the flow-through entity business income tax base that is retained by the estate or trust and the denominator of which is the total flow-through entity business income tax base that is included in distributable net income.

(3) For a taxpayer who is a beneficiary of an estate or trust that is either a member of a flow-through entity that elects to file a return and pay the tax imposed under part 4 or a direct or indirect member of another flow-through entity that elects to file a return and pay the tax imposed under part 4, the amount of the credit allowed under this section is equal to the allocable share of the tax imposed under part 4 for the year ending on or within the taxpayer's same tax year as reported to the beneficiary in accordance with section 789(2).

(4) If the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability shall be refunded.

Sec. 623. (1) Except as otherwise provided in this part, there is levied and imposed a corporate income tax on every taxpayer with business activity within this state or ownership interest or beneficial interest in a

flow-through entity that has business activity in this state unless prohibited by 15 USC 381 to 384. The corporate income tax is imposed on the corporate income tax base, after allocation or apportionment to this state, at the rate of 6.0%.

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

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

(b) Add all taxes on or measured by net income including the tax imposed under this part to the extent that the taxes were deducted in arriving at federal taxable income including any direct or indirect allocated share of taxes paid by a flow-through entity under part 4.

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

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

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

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

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

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

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

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

(g) Eliminate all of the following:

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

(ii) Expenses of producing oil and gas to the extent deducted in arriving at federal taxable income.

(h) 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.

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

(5) As used in this section, "oil and gas" means oil and gas that is subject to severance tax under 1929 PA 48, MCL 205.301 to 205.317.

Sec. 675. (1) Except as otherwise provided under this section, for tax years beginning on and after January 1, 2021, a taxpayer who is either a member of a flow-through entity that elects to file a return and pay the tax

imposed under part 4 or a direct or indirect member of another flow-through entity that elects to file a return and pay the tax imposed under part 4 may claim a credit against the tax imposed under this part in an amount equal to the member's allocated share of the tax as reported to the member by the flow-through entity pursuant to section 789(1)(d) for the tax year ending on or within the taxpayer's same tax year.

(2) If the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability shall be refunded.

PART 4

CHAPTER 18

Sec. 751. A term used in this part and not defined differently shall have the same meaning as when used in comparable context in the laws of the United States relating to federal income taxes in effect for the tax year as provided in section 753(12) unless a different meaning is clearly required. A reference in this part to the internal revenue code includes other provisions of the laws of the United States relating to federal income taxes.

Sec. 753. (1) "Business activity" means a transfer of legal or equitable title to or rental of property, whether real, personal, or mixed, tangible or intangible, or the performance of services, or a combination thereof, made or engaged in, or caused to be made or engaged in, whether in intrastate, interstate, or foreign commerce, with the object of gain, benefit, or advantage, whether direct or indirect, to the taxpayer or to others, but does not include the services rendered by an employee to his or her employer, services as a director of a corporation or S corporation, or services as a manager of a limited liability company that has elected to file as a C corporation or S corporation for federal income tax purposes.

(2) "Business income" means federal taxable income and includes payments and items of income and expense that are attributable to business activity of the flow-through entity and separately reported to its members.

(3) "Corporation" means a person that is required or has elected to file as a C corporation as defined under section 1361(a)(2) and section 7701(a)(3) of the internal revenue code.

(4) "Department" means the department of treasury.

(5) "Domicile" means the principal place from which the trade or business of the flow-through entity is directed or managed.

(6) "Employee" means an employee as defined in section 3401(c) of the internal revenue code. A person from whom an employer is required to withhold for federal income tax purposes is prima facie considered an employee.

(7) "Employer" means an employer as defined in section 3401(d) of the internal revenue code. A person required to withhold for federal income tax purposes is prima facie considered an employer.

(8) "Federal taxable income" means taxable income as defined in section 63 of the internal revenue code without the deductions described under section 703(a)(2) of the internal revenue code. For the purposes of this part in computing federal taxable income, an S corporation shall be treated as a corporation under section 1361(a)(2) of the internal revenue code and a partnership shall be treated as an association taxable as a corporation pursuant to an election under 26 CFR 301.7701-3(a).

(9) "Financial institution" means that term as defined in section 651.

(10) "Flow-through entity" means an entity that for the applicable tax year is treated as an S corporation or a partnership under the internal revenue code for federal income tax purposes. Flow-through entity does not include a publicly traded partnership, any entity disregarded under section 797, or any person subject to the tax imposed under chapter 13.

(11) "Insurance company" means that term as defined in section 607.

(12) "Internal revenue code" means the United States internal revenue code of 1986 in effect on January 1, 2021 or, at the option of the taxpayer, in effect for the tax year.

(13) "Member", when used in reference to a flow-through entity, means a shareholder of an S corporation or a partner or member in a partnership.

(14) "Partnership" means an entity that is required to or has elected to file as a partnership for federal income tax purposes. Partnership includes a limited liability company that is treated as a partnership for federal income tax purposes.

(15) "Person" means an individual, bank, financial institution, insurance company, association, corporation, flow-through entity, receiver, estate, trust, or any other group or combination of groups acting as a unit.

(16) "Publicly traded partnership" means that term as defined under section 7704 of the internal revenue code.

(17) “S corporation” means a United States person electing taxation under sections 1361 to 1379 of the internal revenue code.

(18) “Sale” or “sales” means that term as defined in section 20.

(19) “State” means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country, or a political subdivision of any of the foregoing.

(20) “Tax” means the tax imposed under this part, including interest and penalties under this part, unless the term is given a more limited meaning in the context of this part or a provision of this part.

(21) “Tax year” means the calendar year, or the fiscal year ending during the calendar year, upon the basis of which the tax base of a taxpayer is computed under this part. If a return is made for a fractional part of a year, tax year means the period for which the return is made. Except for the first return required by this part, a taxpayer’s tax year is for the same period as is covered by its federal income tax return. A taxpayer that has a 52- or 53-week tax year beginning not more than 7 days before the end of any month is considered to have a tax year beginning on the first day of the subsequent month.

(22) “Taxpayer” means a flow-through entity that elects pursuant to section 757 to be subject to the tax under this part.

(23) “United States person” means that term as defined in section 7701(a)(30) of the internal revenue code.

Sec. 755. (1) Except as otherwise provided in this part, a taxpayer has substantial nexus in this state and is subject to the tax imposed under this part if the taxpayer elects to pay the tax pursuant to section 757 and if the taxpayer has a physical presence in this state for a period of more than 1 day during the tax year, actively solicits sales in this state and has gross receipts sourced to this state, or is a member or has an ownership interest or a beneficial interest in a flow-through entity, directly, or indirectly through 1 or more other flow-through entities, that has substantial nexus in this state.

(2) As used in this section:

(a) “Actively solicits” means either of the following:

(i) Speech, conduct, or activity that is purposefully directed at or intended to reach persons within this state and that explicitly or implicitly invites an order for a purchase or sale.

(ii) Speech, conduct, or activity that is purposefully directed at or intended to reach persons within this state that neither explicitly nor implicitly invites an order for a purchase or sale, but is entirely ancillary to requests for an order for a purchase or sale.

(b) “Gross receipts” means that term as defined under section 607.

(c) “Physical presence” means any activity conducted by the taxpayer or on behalf of the taxpayer by the taxpayer’s employee, agent, or independent contractor acting in a representative capacity. Physical presence does not include the activities of professionals providing services in a professional capacity or other service providers if the activity is not significantly associated with the taxpayer’s ability to establish and maintain a market in this state.

Sec. 757. For tax years beginning on and after January 1, 2021, a flow-through entity may, in a form and manner as prescribed by the department, elect to file a return and pay the tax imposed by this part. An election made under this section is an irrevocable election that shall continue for the next 2 subsequent tax years and the taxpayer shall continue to file a return and pay the tax imposed under this part as provided in section 785. A flow-through entity that elects to pay the tax imposed under this part shall file its election with the department on or before the fifteenth day of the third month of that tax year. However, an election made for the tax year ending in 2021 must be made before the fifteenth day of the fourth calendar month after the effective date of the amendatory act that added this section. A separate election must be made after the expiration of the irrevocable period described in this section to continue to pay the tax imposed by this part.

Sec. 759. (1) Beginning January 1, 2021 and each tax year after 2021, there is levied and imposed a flow-through entity tax on every taxpayer with business activity in this state unless prohibited by 15 USC 381 to 384. Except as otherwise provided under subsection (5), the flow-through entity tax is imposed on the positive business income tax base, after allocation or apportionment to this state, at the same rate levied and imposed under section 51 for that same tax year. A negative business income tax base of a flow-through entity, after allocation or apportionment to this state, is includible in the business income tax base of each member of the flow-through entity and is not available as an offset to the allocated or apportioned business income tax base of the flow-through entity in any other tax year for which an election is made under section 757.

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

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

(b) 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 federal taxable income.

(c) Deduct, to the extent included in federal taxable 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 federal taxable income.

(d) Add charitable contributions to the extent deducted in arriving at federal taxable income.

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

(f) Deduct guaranteed payments for services rendered by a member who is an individual to the extent that those guaranteed payments were included in federal taxable income.

(g) Deduct, to the extent included in federal taxable 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.

(h) Deduct business income received as a member of another flow-through entity to the extent that the business income increased federal taxable income.

(i) Eliminate all of the following:

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

(ii) Expenses of producing oil and gas to the extent deducted in arriving at federal taxable income.

(iii) Income derived from a mineral to the extent included in federal taxable income of a qualified taxpayer.

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

(3) For a taxpayer that has a direct, or indirect through 1 or more other flow-through entities, ownership or beneficial interest in a flow-through entity for which an election was made under section 757 and that reported positive business income in a tax year ending on or within the taxpayer's tax year, the adjustments in subsection (2) shall not include the taxpayer's share of the electing flow-through entities adjustments under subsection (2).

(4) For a taxpayer that has a direct, or indirect through 1 or more other flow-through entities, ownership or beneficial interest in a flow-through entity for which an election was not made under section 757, add the taxpayer's share of the non-electing flow-through entity's positive business income as determined under section 761(2).

(5) In computing the tax due under this part, the taxpayer shall pay the tax due only on the business income tax base allocable to those members who are individuals, flow-through entities, estates, or trusts and exclude the business income tax base allocable to those members that are corporations, insurance companies, or financial institutions. The department may require the taxpayer to disclose identifying information for all members of the taxpayer and the allocable share of business income for each member.

(6) As used in this section:

(a) "Mineral" means that term as defined in section 2 of the nonferrous metallic minerals extraction severance tax act, 2012 PA 410, MCL 211.782.

(b) "Oil and gas" means oil and gas that is subject to severance tax under 1929 PA 48, MCL 205.301 to 205.317.

(c) "Qualified taxpayer" means a taxpayer subject to the minerals severance tax levied under the nonferrous metallic minerals extraction severance tax act, 2012 PA 410, MCL 211.781 to 211.791.

Sec. 761. (1) Except as otherwise provided in this part, the business income tax base established under this part shall be apportioned in accordance with allocation and apportionment provisions in chapter 3.

(2) For a taxpayer that has a direct, or indirect through 1 or more other flow-through entities, ownership interest or beneficial interest in a flow-through entity, the taxpayer's business income that is directly attributable to the business activity of the flow-through entity shall be apportioned to this state using an apportionment factor determined under chapter 3 based on the business activity of the flow-through entity.

(3) A taxpayer is subject to tax in another state in either of the following circumstances:

(a) The taxpayer is subject to, or would be subject to, if the taxpayer was not a flow-through entity, a business privilege tax, a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax.

(b) That state has jurisdiction to subject the taxpayer to 1 or more of the taxes listed in subdivision (a) regardless of whether, in fact, that state does or does not subject the taxpayer to that tax.

Sec. 771. Any taxpayer allocated income as a member of a flow-through entity by the flow-through entity may not claim a credit against the tax imposed by this part for the taxpayer's allocated share of the tax as reported by the other flow-through entity pursuant to section 789(1)(d) for the tax year ending on or within the taxpayer's same tax year.

Sec. 781. (1) Except as otherwise provided under this section, a taxpayer that reasonably expects liability for the tax year to exceed \$800.00 shall file an estimated return and pay an estimated tax for each quarter of the taxpayer's tax year in the same manner as provided in section 301.

(2) The interest and penalty provided by this part shall not be assessed for the 2022 tax year and each subsequent tax year, if the preceding year's tax liability under this part was \$20,000.00 or less and if the taxpayer submitted 4 equal installments the sum of which equals the immediately preceding tax year's tax liability.

(3) Each estimated return shall be made on a form prescribed by the department and shall include an estimate of the annual tax liability and other information required by the state treasurer. The form prescribed under this subsection may be combined with any other tax reporting form prescribed by the department.

(4) Payments made under this section shall be a credit against the payment required with the annual tax return required in section 785.

(5) If the department considers it necessary to insure payment of the tax or to provide a more efficient administration of the tax, the department may require filing of the returns and payment of the tax for other than quarterly or annual periods.

Sec. 785. (1) An annual or final return for the tax imposed under this part shall be filed with the department in the form and content prescribed by the department by the last day of the third month after the end of the taxpayer's tax year. Any final liability shall be remitted by the annual due date of the taxpayer's annual or final return, excluding any extension of time to file the return as provided under subsections (2) and (3). A taxpayer that elected to file a return for 3 years under section 757 whose tax liability under this part is less than or equal to \$100.00 shall file an information return in accordance with section 711.

(2) The department, upon application of the taxpayer and for good cause shown, may extend the date for filing the annual return. Interest at the rate under section 23(2) of 1941 PA 122, MCL 205.23, shall be added to the amount of the tax unpaid for the period of the extension. The state treasurer shall require with the application payment of the estimated tax liability unpaid for the tax period covered by the extension.

(3) If a taxpayer is granted an extension of time within which to file the federal income tax return for any tax year, the filing of a copy of the request for extension together with a tentative return and payment of an estimated tax with the department by the due date provided in subsection (1) shall automatically extend the due date for the filing of an annual or final return under this part until the last day of the sixth month following the original due date of the return. Interest at the rate under section 23(2) of 1941 PA 122, MCL 205.23, shall be added to the amount of the tax unpaid for the period of the extension.

Sec. 787. (1) A taxpayer required to file a return under this part may be required to furnish a true and correct copy of any return or portion of any return filed under the provisions of the internal revenue code.

(2) A taxpayer shall file an amended return with the department showing any alteration in or modification of a federal income tax return that affects its tax base under this part. The amended return shall be filed within 180 days after the final determination by the internal revenue service.

Sec. 789. (1) A taxpayer or a flow-through entity that did not make the election under section 757 shall provide on or before the due date of the return under section 785, upon the amendment of a return filed under section 785 or the adjustment of the tax under this part by the department, to any member to which the provision of information is required by the internal revenue code all of the following for the tax year:

(a) Information regarding the allocation and apportionment of the business income described under this part and the allocation and apportionment of income subject to tax under part 1 and part 2.

(b) The member's allocable share of the reporting flow-through entity's taxes calculated under section 759(2)(e) on or measured by net income including the tax imposed by this part for the tax year. The member's allocable share of taxes calculated under section 759(2)(e) and allocated to the reporting flow-through entity by other flow-through entities with tax years ending on or within the reporting flow-through entity's tax year.

(c) The member's allocable share of the reporting flow-through entity's refund calculated under section 759(2)(g). The member's allocable share of refunds calculated under section 759(2)(g) and allocated to the reporting flow-through entity by other flow-through entities with tax years ending on or within the reporting flow-through entity's tax year.

(d) Each of the following:

(i) The member's share of the tax imposed under this part on the taxpayer for the tax year and paid by the fifteenth day of the third month after the end of the tax year.

(ii) The member's share of the tax imposed under this part on the taxpayer for any prior tax year and paid within the tax year excluding any amount reported under subparagraph (i) for the previous tax year.

(iii) The member's share of the tax allocated to the reporting flow-through entity under subparagraphs (i) and (ii) by other flow-through entities with tax years ending on or within the reporting flow-through entity's tax year.

(e) The member's share of the tax allocated under subdivision (d) must be determined based on the member's share of the income or gain generating the tax imposed under this part and included in the member's share of business income. If a member is allocated different portions of separately reported categories of income and gain, then the allocated share of tax must be based on the tax imposed under this part on each separate category of income or gain.

(2) An estate or trust that is either a member of a flow-through entity that elects to file a return and pay the tax imposed under this part or a direct or indirect member of another flow-through entity that elects to file a return and pay the tax imposed under this part shall on or before the due date of the return required under part 1 report to its beneficiaries their allocable share of the tax imposed under this part and reported to the estate or trust under section 789(1)(d) in the same tax year. The allocable share is determined by multiplying the total amount of tax imposed under this part and reported to the estate or trust under section 789(1)(d) in the tax year by a percentage equal to a fraction, the numerator of which is the flow-through entity business income tax base that is distributed to the beneficiaries and the denominator of which is the total flow-through entity business income tax base that is included in distributable net income.

Sec. 791. (1) The tax imposed by this part shall be administered by the department of treasury pursuant to 1941 PA 122, MCL 205.1 to 205.31, and this part. If a conflict exists between 1941 PA 122, MCL 205.1 to 205.31, and this part, the provisions of this part apply.

(2) The department may promulgate rules to implement this part pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(3) The department shall prescribe forms for use by taxpayers and may promulgate rules in conformity with this part for the maintenance by taxpayers of records, books, and accounts, and for the computation of the tax, the manner and time of changing or electing accounting methods and of exercising the various options contained in this part, the making of returns, and the ascertainment, assessment, and collection of the tax imposed under this part.

(4) The tax imposed by this part is in addition to all other taxes for which the taxpayer may be liable.

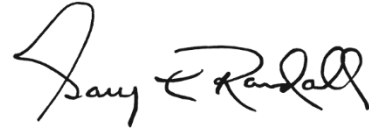
(5) The department shall prepare and publish statistics from the records kept to administer the tax imposed by this part that detail the distribution of tax receipts by type of business, legal form of organization, sources of tax base, timing of tax receipts, and types of deductions. The statistics shall not result in the disclosure of information regarding any specific taxpayer.

Sec. 793. From the tax levied under this part, that percentage of the gross collections before refunds that is equal to 1.012% divided by the tax rate levied under this part shall be deposited in the state school aid fund created in section 11 of article IX of the state constitution of 1963 and the balance of the revenue collected under this part after the distribution to the school aid fund shall be deposited into the general fund.

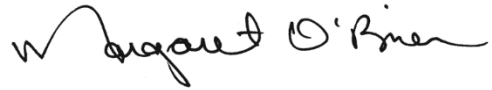
Sec. 797. Notwithstanding any other provision of this act, a person that is a disregarded entity for federal income tax purposes under the internal revenue code shall be classified as a disregarded entity for purposes of this part.

Enacting section 1. This amendatory act is retroactive and intended to apply retroactively effective for tax years beginning on and after January 1, 2021.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor