

**SUBSTITUTE FOR
HOUSE BILL NO. 5376**

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
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:

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

1 related expenses not deducted in computing adjusted gross income
2 because of section 265(a) (1) of the internal revenue code.

3 (b) Add taxes on or measured by income to the extent the taxes
4 have been deducted in arriving at adjusted gross income **including**
5 **any direct or indirect allocated share of taxes paid by a flow-**
6 **through entity under part 4.**

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

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

19 (e) Deduct, to the extent included in adjusted gross income,
20 the following:

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

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

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

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

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

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

11 (iii) Social Security benefits as defined in section 86 of the
12 internal revenue code.

13 (iv) Beginning on and after January 1, 2007, retirement or
14 pension benefits not deductible under subparagraph (i) or
15 subdivision (e) from any other retirement or pension system or
16 benefits from a retirement annuity policy in which payments are
17 made for life to a senior citizen, to a maximum of \$42,240.00 for a
18 single return and \$84,480.00 for a joint return. The maximum
19 amounts allowed under this subparagraph shall be reduced by the
20 amount of the deduction for retirement or pension benefits claimed
21 under subparagraph (i) or subdivision (e) and by the amount of a
22 deduction claimed under subdivision (p). For the 2008 tax year and
23 each tax year after 2008, the maximum amounts allowed under this
24 subparagraph shall be adjusted by the percentage increase in the
25 United States Consumer Price Index for the immediately preceding
26 calendar year. The department shall annualize the amounts provided
27 in this subparagraph as necessary. ~~As used in this subparagraph,~~
28 ~~"senior citizen" means that term as defined in section 514.~~

29 (v) The amount determined to be the section 22 amount eligible

1 for the elderly and the permanently and totally disabled credit
2 provided in section 22 of the internal revenue code.

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

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

6 (i) Adjustments resulting from the allocation and
7 apportionment provisions of chapter 3.

8 (j) Deduct the following payments made by the taxpayer in the
9 tax year:

10 (i) ~~For the 2010 tax year and each tax year after 2010, the~~ **The**
11 amount of a charitable contribution made to the advance tuition
12 payment fund created under section 9 of the Michigan education
13 trust act, 1986 PA 316, MCL 390.1429.

14 (ii) The amount of payment made under an advance tuition
15 payment contract as provided in the Michigan education trust act,
16 1986 PA 316, MCL 390.1421 to 390.1442.

17 (iii) The amount of payment made under a contract with a private
18 sector investment manager that meets all of the following criteria:

19 (A) The contract is certified and approved by the board of
20 directors of the Michigan education trust to provide equivalent
21 benefits and rights to purchasers and beneficiaries as an advance
22 tuition payment contract as described in subparagraph (ii).

23 (B) The contract applies only for a state institution of
24 higher education as defined in the Michigan education trust act,
25 1986 PA 316, MCL 390.1421 to 390.1442, or a community or junior
26 college in Michigan.

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

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

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

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

11 (k) If an advance tuition payment contract under the Michigan
12 education trust act, 1986 PA 316, MCL 390.1421 to 390.1442, or
13 another contract for which the payment was deductible under
14 subdivision (j) is terminated and the qualified beneficiary under
15 that contract does not attend a university, college, junior or
16 community college, or other institution of higher education, add
17 the amount of a refund received by the taxpayer as a result of that
18 termination or the amount of the deduction taken under subdivision
19 (j) for payment made under that contract, whichever is less.

20 (l) Deduct from the taxable income of a purchaser the amount
21 included as income to the purchaser under the internal revenue code
22 after the advance tuition payment contract entered into under the
23 Michigan education trust act, 1986 PA 316, MCL 390.1421 to
24 390.1442, is terminated because the qualified beneficiary attends
25 an institution of postsecondary education other than either a state
26 institution of higher education or an institution of postsecondary
27 education located outside this state with which a state institution
28 of higher education has reciprocity.

29 (m) Add, to the extent deducted in determining adjusted gross

1 income, the net operating loss deduction under section 172 of the
2 internal revenue code.

3 (n) Deduct a net operating loss deduction for the taxable year
4 as determined under section 172 of the internal revenue code
5 subject to the modifications under section 172(b)(2) of the
6 internal revenue code and subject to the allocation and
7 apportionment provisions of chapter 3 for the taxable year in which
8 the loss was incurred.

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

12 (p) Beginning on and after January 1, 2007, subject to any
13 limitation provided in this subdivision, a taxpayer who is a senior
14 citizen may deduct to the extent included in adjusted gross income,
15 interest, dividends, and capital gains received in the tax year not
16 to exceed \$9,420.00 for a single return and \$18,840.00 for a joint
17 return. The maximum amounts allowed under this subdivision shall be
18 reduced by the amount of a deduction claimed for retirement or
19 pension benefits under subdivision (e) or a deduction claimed under
20 subdivision (f) (i), (ii), (iv), or (v). For the 2008 tax year and each
21 tax year after 2008, the maximum amounts allowed under this
22 subdivision shall be adjusted by the percentage increase in the
23 United States Consumer Price Index for the immediately preceding
24 calendar year. The department shall annualize the amounts provided
25 in this subdivision as necessary. Beginning January 1, 2012, the
26 deduction under this subdivision is not available to a senior
27 citizen born after 1945. ~~As used in this subdivision, "senior~~
28 ~~citizen" means that term as defined in section 514.~~

29 (q) Deduct, to the extent included in adjusted gross income,

1 all of the following:

2 (i) The amount of a refund received in the tax year based on
3 taxes paid under this part **and any direct or indirect allocated**
4 **share of a refund received by a flow-through entity under part 4.**

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

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

12 (r) Add the amount paid by the state on behalf of the taxpayer
13 in the tax year to repay the outstanding principal on a loan taken
14 on which the taxpayer defaulted that was to fund an advance tuition
15 payment contract entered into under the Michigan education trust
16 act, 1986 PA 316, MCL 390.1421 to 390.1442, if the cost of the
17 advance tuition payment contract was deducted under subdivision (j)
18 and was financed with a Michigan education trust secured loan.

19 (s) Deduct, to the extent included in adjusted gross income,
20 any amount, and any interest earned on that amount, received in the
21 tax year by a taxpayer who is a Holocaust victim as a result of a
22 settlement of claims against any entity or individual for any
23 recovered asset pursuant to the German act regulating unresolved
24 property claims, also known as Gesetz zur Regelung offener
25 Vermögensfragen, as a result of the settlement of the action
26 entitled *In re: Holocaust victim assets litigation*, CV-96-4849, CV-
27 96-5161, and CV-97-0461 (E.D. NY), or as a result of any similar
28 action if the income and interest are not commingled in any way
29 with and are kept separate from all other funds and assets of the

1 taxpayer. As used in this subdivision:

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

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

11 (t) Deduct all of the following:

12 (i) To the extent not deducted in determining adjusted gross
13 income, contributions made by the taxpayer in the tax year less
14 qualified withdrawals made in the tax year from education savings
15 accounts, calculated on a per education savings account basis,
16 pursuant to the Michigan education savings program act, 2000 PA
17 161, MCL 390.1471 to 390.1486, not to exceed a total deduction of
18 \$5,000.00 for a single return or \$10,000.00 for a joint return per
19 tax year. The amount calculated under this subparagraph for each
20 education savings account shall not be less than zero.

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

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

29 (u) Add, to the extent not included in adjusted gross income,

1 the amount of money withdrawn by the taxpayer in the tax year from
2 education savings accounts, not to exceed the total amount deducted
3 under subdivision (t) in the tax year and all previous tax years,
4 if the withdrawal was not a qualified withdrawal as provided in the
5 Michigan education savings program act, 2000 PA 161, MCL 390.1471
6 to 390.1486. This subdivision does not apply to withdrawals that
7 are less than the sum of all contributions made to an education
8 savings account in all previous tax years for which no deduction
9 was claimed under subdivision (t), less any contributions for which
10 no deduction was claimed under subdivision (t) that were withdrawn
11 in all previous tax years.

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

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

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

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

25 (B) All interest and passive dividends.

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

28 (D) All rents and royalties derived from tangible personal
29 property, to the extent the personal property is utilized within

1 the agreement area.

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

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

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

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

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

15 (J) All gaming winnings.

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

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

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

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

25 (w) ~~For tax years beginning after December 31, 2011, eliminate~~
26 **Eliminate** all of the following:

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

29 (ii) Expenses of producing oil and gas to the extent deducted

1 in arriving at adjusted gross income.

2 ~~(x) For tax years that begin after December 31, 2015, deduct~~
3 **Deduct** all of the following:

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

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

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

20 ~~(y) For tax years that begin after December 31, 2015, add,~~
21 **Add**, to the extent not included in adjusted gross income, the
22 amount of money withdrawn by the taxpayer in the tax year from an
23 ABLE savings account, not to exceed the total amount deducted under
24 subdivision (x) in the tax year and all previous tax years, if the
25 withdrawal was not a qualified withdrawal as provided in the
26 Michigan achieving a better life experience (ABLE) program act,
27 2015 PA 160, MCL 206.981 to 206.997. This subdivision does not
28 apply to withdrawals that are less than the sum of all
29 contributions made to an ABLE savings account in all previous tax

1 years for which no deduction was claimed under subdivision (x),
2 less any contributions for which no deduction was claimed under
3 subdivision (x) that were withdrawn in all previous tax years.

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

8 (aa) For the 2016, 2017, 2018, and 2019 tax years and for each
9 tax year that begins on and after January 1, 2025, a taxpayer who
10 is a disabled veteran may deduct, to the extent included in
11 adjusted gross income, income reported on a federal income tax form
12 1099-C that is attributable to the cancellation or discharge of a
13 student loan by the United States Department of Education pursuant
14 to the total and permanent disability discharge program, 34 CFR
15 685.213. As used in this subdivision, "disabled veteran" means an
16 individual who meets either of the following criteria:

17 (i) Has been determined by the United States Department of
18 Veterans Affairs to be permanently and totally disabled as a result
19 of military service and entitled to veterans' benefits at the 100%
20 rate.

21 (ii) Has been rated by the United States Department of Veterans
22 Affairs as individually unemployable.

23 (2) Except as otherwise provided in subsection (7) and section
24 30a, a personal exemption of \$3,700.00 multiplied by the number of
25 personal and dependency exemptions shall be subtracted in the
26 calculation that determines taxable income. The number of personal
27 and dependency exemptions allowed shall be determined as follows:

28 (a) Each taxpayer may claim 1 personal exemption. However, if
29 a joint return is not made by the taxpayer and his or her spouse,

1 the taxpayer may claim a personal exemption for the spouse if the
2 spouse, for the calendar year in which the taxable year of the
3 taxpayer begins, does not have any gross income and is not the
4 dependent of another taxpayer.

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

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

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

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

25 (b) ~~For tax years beginning after 2007,~~ \$250.00 for each
26 taxpayer and every dependent of the taxpayer who is a qualified
27 disabled veteran. When a dependent of a taxpayer files an annual
28 return under this part, the taxpayer or dependent of the taxpayer,
29 but not both, may claim the additional exemption allowed under this

1 subdivision. As used in this subdivision:

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

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

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

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

16 (5) A nonresident or a part-year resident is allowed that
17 proportion of an exemption or deduction allowed under subsection
18 (2), (3), or (4) that the taxpayer's portion of adjusted gross
19 income from Michigan sources bears to the taxpayer's total adjusted
20 gross income.

21 (6) In calculating taxable income, a taxpayer shall not
22 subtract from adjusted gross income the amount of prizes won by the
23 taxpayer under the McCauley-Traxler-Law-Bowman-McNeely lottery act,
24 1972 PA 239, MCL 432.1 to 432.47.

25 (7) For each tax year beginning on and after January 1, 2013,
26 the personal exemption allowed under subsection (2) shall be
27 adjusted by multiplying the exemption for the tax year beginning in
28 2012 by a fraction, the numerator of which is the United States
29 Consumer Price Index for the state fiscal year ending in the tax

1 year prior to the tax year for which the adjustment is being made
2 and the denominator of which is the United States Consumer Price
3 Index for the 2010-2011 state fiscal year. For the 2022 tax year
4 and each tax year after 2022, the adjusted amount determined under
5 this subsection shall be increased by an additional \$600.00. The
6 resultant product shall be rounded to the nearest \$100.00
7 increment. For each tax year, the exemptions allowed under
8 subsection (3) shall be adjusted by multiplying the exemption
9 amount under subsection (3) for the tax year by a fraction, the
10 numerator of which is the United States Consumer Price Index for
11 the state fiscal year ending the tax year prior to the tax year for
12 which the adjustment is being made and the denominator of which is
13 the United States Consumer Price Index for the 1998-1999 state
14 fiscal year. The resultant product shall be rounded to the nearest
15 \$100.00 increment.

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

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

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

23 (ii) Individual retirement accounts that qualify under section
24 408 of the internal revenue code if the distributions are not made
25 until the participant has reached 59-1/2 years of age, except in
26 the case of death, disability, or distributions described by
27 section 72(t)(2)(A)(iv) of the internal revenue code.

28 (iii) Employee annuities or tax-sheltered annuities purchased
29 under section 403(b) of the internal revenue code by organizations

1 exempt under section 501(c)(3) of the internal revenue code, or by
2 public school systems.

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

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

8 (i) Plans of the United States, state governments other than
9 this state, and political subdivisions, agencies, or
10 instrumentalities of this state.

11 (ii) Plans maintained by a church or a convention or
12 association of churches.

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

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

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

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

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

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

29 (a) (iv).

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

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

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

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

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

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

26 (c) Beginning January 1, 2013 for a person born in 1946
27 through 1952 and beginning January 1, 2018 for a person born after
28 1945 who has retired as of January 1, 2013, if that person receives
29 retirement or pension benefits from employment with a governmental

1 agency that was not covered by the federal social security act,
2 chapter 531, 49 Stat 620, the sum of the deductions under
3 subsection (1) (f) (i), (ii), and (iv) is limited to \$35,000.00 for a
4 single return and, except as otherwise provided under this
5 subdivision, \$55,000.00 for a joint return. If both spouses filing
6 a joint return receive retirement or pension benefits from
7 employment with a governmental agency that was not covered by the
8 federal social security act, chapter 531, 49 Stat 620, the sum of
9 the deductions under subsection (1) (f) (i), (ii), and (iv) is limited
10 to \$70,000.00 for a joint return. After that person reaches the age
11 of 67, the deductions under subsection (1) (f) (i), (ii), and (iv) do
12 not apply and that person is eligible for a deduction of \$35,000.00
13 for a single return and \$55,000.00 for a joint return, or
14 \$70,000.00 for a joint return if applicable, which deduction is
15 available against all types of income and is not restricted to
16 income from retirement or pension benefits. A person who takes the
17 deduction under subsection (1) (e) is not eligible for the
18 unrestricted deduction of \$35,000.00 for a single return and
19 \$55,000.00 for a joint return, or \$70,000.00 for a joint return if
20 applicable, under this subdivision.

21 (d) Except as otherwise provided under subdivision (c) for a
22 person who was retired as of January 1, 2013, for a person born
23 after 1952 who has reached the age of 62 through 66 years of age
24 and who receives retirement or pension benefits from employment
25 with a governmental agency that was not covered by the federal
26 social security act, chapter 531, 49 Stat 620, the sum of the
27 deductions under subsection (1) (f) (i), (ii), and (iv) is limited to
28 \$15,000.00 for a single return and, except as otherwise provided
29 under this subdivision, \$15,000.00 for a joint return. If both

1 spouses filing a joint return receive retirement or pension
2 benefits from employment with a governmental agency that was not
3 covered by the federal social security act, chapter 531, 49 Stat
4 620, the sum of the deductions under subsection (1)(f)(i), (ii), and
5 (iv) is limited to \$30,000.00 for a joint return.

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

24 (f) For a joint return, the limitations and restrictions in
25 this subsection shall be applied based on the date of birth of the
26 older spouse filing the joint return. If a deduction under
27 subsection (1)(f) was claimed on a joint return for a tax year in
28 which a spouse died and the surviving spouse has not remarried
29 since the death of that spouse, the surviving spouse is entitled to

1 claim the deduction under subsection (1)(f) in subsequent tax years
2 subject to the same restrictions and limitations, for a single
3 return, that would have applied based on the date of birth of the
4 older of the 2 spouses. For tax years beginning after December 31,
5 2019, a surviving spouse born after 1945 who has reached the age of
6 67 and has not remarried since the death of that spouse may elect
7 to take the deduction that is available against all types of income
8 subject to the same limitations and restrictions as provided under
9 this subsection based on the surviving spouse's date of birth
10 instead of taking the deduction allowed under subsection (1)(f),
11 for a single return, based on the date of birth of the older
12 spouse.

13 (10) As used in this section:

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

16 (b) **"Senior citizen" means that term as defined in section**
17 **514.**

18 (c) ~~(b)~~—"United States Consumer Price Index" means the United
19 States Consumer Price Index for all urban consumers as defined and
20 reported by the United States Department of Labor, Bureau of Labor
21 Statistics.

22 **Sec. 254. (1) Except as otherwise provided under this section,**
23 **for tax years beginning on and after January 1, 2021, a taxpayer**
24 **who is either a member of a flow-through entity that elects to file**
25 **a return and pay the tax imposed under part 4 or a direct or**
26 **indirect member of another flow-through entity that elects to file**
27 **a return and pay the tax imposed under part 4 may claim a credit**
28 **against the tax imposed under this part in an amount equal to the**
29 **member's allocated share of the tax as reported to the member by**

1 the flow-through entity pursuant to section 839(1)(d) for the tax
2 year ending on or within the taxpayer's same tax year. A
3 nonresident estate or trust may claim a credit against the tax
4 imposed under this part in an amount equal to the nonresident
5 estate's or trust's allocated share of the tax as reported to the
6 nonresident estate or trust pursuant to section 839(1)(d) for the
7 tax year ending on or within the taxpayer's same tax year
8 multiplied by a percentage equal to a fraction, the numerator of
9 which is 100 minus the rate imposed under section 51, and the
10 denominator of which is 100.

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

19 (3) For a taxpayer who is a beneficiary of an estate or trust
20 that is either a member of a flow-through entity that elects to
21 file a return and pay the tax imposed under part 4 or a direct or
22 indirect member of another flow-through entity that elects to file
23 a return and pay the tax imposed under part 4, the amount of the
24 credit allowed under this section is equal to the allocable share
25 of the tax imposed under part 4 for the year ending on or within
26 the taxpayer's same tax year as reported to the beneficiary in
27 accordance with section 839(2).

28 (4) If the credit allowed under this section exceeds the tax
29 liability of the taxpayer for the tax year, that portion of the

1 credit that exceeds the tax liability shall be refunded.

2 (5) For tax years ending in 2021 only, if the taxpayer claims
3 a credit under this section and the annual return filed under this
4 part on which the credit under this section is claimed results in a
5 refund, any portion of that refund that is attributable to the
6 credit claimed under this section is not subject to added interest
7 under section 30(3), (4), and (5) of 1941 PA 122, MCL 205.30.

8 Sec. 623. (1) Except as otherwise provided in this part, there
9 is levied and imposed a corporate income tax on every taxpayer with
10 business activity within this state or ownership interest or
11 beneficial interest in a flow-through entity that has business
12 activity in this state unless prohibited by 15 USC 381 to 384. The
13 corporate income tax is imposed on the corporate income tax base,
14 after allocation or apportionment to this state, at the rate of
15 6.0%.

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

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

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

1 **under part 4.**

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

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

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

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

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

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

29 (iv) The related person recipient of the transaction is

1 organized under the laws of a foreign nation which has in force a
2 comprehensive income tax treaty with the United States.

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

5 (g) ~~For tax years beginning after December 31, 2011, eliminate~~
6 **Eliminate** all of the following:

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

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

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

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

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

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

23 (4) Deduct any available business loss incurred after December
24 31, 2011. As used in this subsection, "business loss" means a
25 negative business income taxable amount after allocation or
26 apportionment. For purposes of this subsection, a taxpayer that
27 acquires the assets of another corporation in a transaction
28 described under section 381(a)(1) or (2) of the internal revenue
29 code may deduct any business loss attributable to that distributor

1 or transferor corporation. The business loss shall be carried
 2 forward to the year immediately succeeding the loss year as an
 3 offset to the allocated or apportioned corporate income tax base,
 4 then successively to the next 9 taxable years following the loss
 5 year or until the loss is used up, whichever occurs first.

6 (5) As used in this section, "oil and gas" means oil and gas
 7 that is subject to severance tax under 1929 PA 48, MCL 205.301 to
 8 205.317.

9 **Sec. 675. (1) Except as otherwise provided under this section,**
 10 **for tax years beginning on and after January 1, 2021, a taxpayer**
 11 **who is either a member of a flow-through entity that elects to file**
 12 **a return and pay the tax imposed under part 4 or a direct or**
 13 **indirect member of another flow-through entity that elects to file**
 14 **a return and pay the tax imposed under part 4 may claim a credit**
 15 **against the tax imposed under this part in an amount equal to the**
 16 **member's allocated share of the tax as reported to the member by**
 17 **the flow-through entity pursuant to section 839(1)(d) for the tax**
 18 **year ending on or within the taxpayer's same tax year.**

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

22 (3) For tax years ending in 2021 only, if the taxpayer claims
 23 a credit under this section and the annual return filed under this
 24 part on which the credit under this section is claimed results in a
 25 refund, any portion of that refund that is attributable to the
 26 credit claimed under this section is not subject to added interest
 27 under section 30(3) of 1941 PA 122, MCL 205.30.

28 **PART 4**

29 **CHAPTER 20**

1 Sec. 801. A term used in this part and not defined differently
2 shall have the same meaning as when used in comparable context in
3 the laws of the United States relating to federal income taxes in
4 effect for the tax year as provided in section 805(5) unless a
5 different meaning is clearly required. A reference in this part to
6 the internal revenue code includes other provisions of the laws of
7 the United States relating to federal income taxes.

8 Sec. 803. (1) "Business activity" means a transfer of legal or
9 equitable title to or rental of property, whether real, personal,
10 or mixed, tangible or intangible, or the performance of services,
11 or a combination thereof, made or engaged in, or caused to be made
12 or engaged in, whether in intrastate, interstate, or foreign
13 commerce, with the object of gain, benefit, or advantage, whether
14 direct or indirect, to the taxpayer or to others, but does not
15 include the services rendered by an employee to his or her
16 employer, services as a director of a corporation or S corporation,
17 or services as a manager of a limited liability company that has
18 elected to file as a C corporation or S corporation for federal
19 income tax purposes.

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

24 (3) "Corporation" means a person that is required or has
25 elected to file as a C corporation as defined under section
26 1361(a)(2) and section 7701(a)(3) of the internal revenue code.

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

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

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

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

8 Sec. 805. (1) "Federal taxable income" means taxable income as
9 defined in section 63 of the internal revenue code without the
10 deductions described under section 703(a) (2) of the internal
11 revenue code. For the purposes of this part in computing federal
12 taxable income, an S corporation shall be treated as a corporation
13 under section 1361(a) (2) of the internal revenue code and a
14 partnership shall be treated as an association taxable as a
15 corporation pursuant to an election under 26 CFR 301.7701-3(a).

16 (2) "Financial institution" means that term as defined in
17 section 651.

18 (3) "Flow-through entity" means an entity that for the
19 applicable tax year is treated as an S corporation or a partnership
20 under the internal revenue code for federal income tax purposes.
21 Flow-through entity does not include a publicly traded partnership,
22 any entity disregarded under section 845, or any person subject to
23 the tax imposed under chapter 13.

24 (4) "Insurance company" means that term as defined in section
25 607.

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

29 (6) "Member", when used in reference to a flow-through entity,

1 means a shareholder of an S corporation or a partner or member in a
2 partnership.

3 Sec. 807. (1) "Partnership" means an entity that is required
4 to or has elected to file as a partnership for federal income tax
5 purposes. Partnership includes a limited liability company that is
6 treated as a partnership for federal income tax purposes.

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

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

13 (4) "S corporation" means a United States person electing
14 taxation under sections 1361 to 1379 of the internal revenue code.

15 (5) "Sale" or "sales" means that term as defined in section
16 20.

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

21 Sec. 809. (1) "Tax" means the tax imposed under this part,
22 including interest and penalties under this part, unless the term
23 is given a more limited meaning in the context of this part or a
24 provision of this part.

25 (2) "Tax year" means the calendar year, or the fiscal year
26 ending during the calendar year, upon the basis of which the tax
27 base of a taxpayer is computed under this part. If a return is made
28 for a fractional part of a year, tax year means the period for
29 which the return is made. Except for the first return required by

1 this part, a taxpayer's tax year is for the same period as is
2 covered by its federal income tax return. A taxpayer that has a 52-
3 or 53-week tax year beginning not more than 7 days before the end
4 of any month is considered to have a tax year beginning on the
5 first day of the subsequent month.

6 (3) "Taxpayer" means a flow-through entity that elects
7 pursuant to section 813 to be subject to the tax under this part.

8 (4) "United States person" means that term as defined in
9 section 7701(a) (30) of the internal revenue code.

10 CHAPTER 21

11 Sec. 811. (1) Except as otherwise provided in this part, a
12 taxpayer has substantial nexus in this state and is subject to the
13 tax imposed under this part if the taxpayer elects to pay the tax
14 pursuant to section 813 and if the taxpayer has a physical presence
15 in this state for a period of more than 1 day during the tax year,
16 actively solicits sales in this state and has gross receipts
17 sourced to this state, or is a member or has an ownership interest
18 or a beneficial interest in a flow-through entity, directly, or
19 indirectly through 1 or more other flow-through entities, that has
20 substantial nexus in this state.

21 (2) As used in this section:

22 (a) "Actively solicits" means either of the following:

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

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

1 or sale.

2 (b) "Gross receipts" means that term as defined under section
3 607.

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

12 Sec. 813. For tax years beginning on and after January 1,
13 2021, a flow-through entity may, in a form and manner as prescribed
14 by the department, elect to file a return and pay the tax imposed
15 by this part. Except as otherwise provided under this section, an
16 election made under this section is an irrevocable election that
17 shall continue for the next 2 subsequent tax years and the taxpayer
18 shall continue to file a return and pay the tax imposed under this
19 part as provided in section 833. A flow-through entity that elects
20 to pay the tax imposed under this part shall file its election with
21 the department on or before the fifteenth day of the third month of
22 that tax year. However, an election made for any tax year beginning
23 in 2021 must be made before the fifteenth day of the fourth
24 calendar month after the effective date of the amendatory act that
25 added this section. A separate election must be made after the
26 expiration of the irrevocable period described in this section to
27 continue to pay the tax imposed by this part. If, in accordance
28 with section 847, the tax is not levied and imposed during any tax
29 year, for any subsequent tax year that the tax is levied and

1 imposed under this part, regardless of whether the taxpayer had
2 previously made an election to pay under this section, the taxpayer
3 is required to make a separate election to pay under this section.

4 Sec. 815. (1) Subject to section 847, beginning January 1,
5 2021 and each tax year after 2021, there is levied and imposed a
6 flow-through entity tax on every taxpayer with business activity in
7 this state unless prohibited by 15 USC 381 to 384. Except as
8 otherwise provided under subsection (5), the flow-through entity
9 tax is imposed on the positive business income tax base, after
10 allocation or apportionment to this state, at the same rate levied
11 and imposed under section 51 for that same tax year. A negative
12 business income tax base of a flow-through entity, after allocation
13 or apportionment to this state, is includible in the business
14 income tax base of each member of the flow-through entity and is
15 not available as an offset to the allocated or apportioned business
16 income tax base of the flow-through entity in any other tax year
17 for which an election is made under section 813.

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

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

28 (b) Add losses on the sale or exchange of obligations of the
29 United States government, the income of which this state is

1 prohibited from subjecting to a net income tax, to the extent that
2 the loss has been deducted in arriving at federal taxable income.

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

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

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

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

19 (g) Deduct, to the extent included in federal taxable income,
20 all of the following:

21 (i) The amount of a refund received in the tax year based on
22 taxes paid under this part.

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

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

29 (i) Eliminate all of the following:

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

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

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

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

10 (3) For a taxpayer that has a direct, or indirect through 1 or
11 more other flow-through entities, ownership or beneficial interest
12 in a flow-through entity for which an election was made under
13 section 813 and that reported positive business income in a tax
14 year ending on or within the taxpayer's tax year, the adjustments
15 in subsection (2) shall not include the taxpayer's share of the
16 electing flow-through entities adjustments under subsection (2).

17 (4) For a taxpayer that has a direct, or indirect through 1 or
18 more other flow-through entities, ownership or beneficial interest
19 in a flow-through entity for which an election was not made under
20 section 813, add the taxpayer's share of the non-electing flow-
21 through entity's positive business income as determined under
22 section 817(2).

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

1 the taxpayer and the allocable share of business income for each
2 member.

3 (6) As used in this section:

4 (a) "Mineral" means that term as defined in section 2 of the
5 nonferrous metallic minerals extraction severance tax act, 2012 PA
6 410, MCL 211.782.

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

9 (c) "Qualified taxpayer" means a taxpayer subject to the
10 minerals severance tax levied under the nonferrous metallic
11 minerals extraction severance tax act, 2012 PA 410, MCL 211.781 to
12 211.791.

13 Sec. 817. (1) Except as otherwise provided in this part, the
14 business income tax base established under this part shall be
15 apportioned in accordance with allocation and apportionment
16 provisions in chapter 3.

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

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

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

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

5 Sec. 819. Any taxpayer allocated income as a member of a flow-
6 through entity by the flow-through entity may not claim a credit
7 against the tax imposed by this part for the taxpayer's allocated
8 share of the tax as reported by the other flow-through entity
9 pursuant to section 839(1)(d) for the tax year ending on or within
10 the taxpayer's same tax year.

11 CHAPTER 23

12 Sec. 831. (1) Except as otherwise provided under this section,
13 a taxpayer that reasonably expects liability for the tax year to
14 exceed \$800.00 shall file an estimated return and pay an estimated
15 tax for each quarter of the taxpayer's tax year in the same manner
16 as provided in section 301.

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

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

27 (4) Payments made under this section shall be a credit against
28 the payment required with the annual tax return required in section
29 833.

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

5 Sec. 833. (1) An annual or final return for the tax imposed
6 under this part shall be filed with the department in the form and
7 content prescribed by the department by the last day of the third
8 month after the end of the taxpayer's tax year. Any final liability
9 shall be remitted by the annual due date of the taxpayer's annual
10 or final return, excluding any extension of time to file the return
11 as provided under subsections (2) and (3). A taxpayer that elected
12 to file a return for 3 years under section 813 whose tax liability
13 under this part is less than or equal to \$100.00 shall file an
14 information return in accordance with section 711.

15 (2) The department, upon application of the taxpayer and for
16 good cause shown, may extend the date for filing the annual return.
17 Interest at the rate under section 23(2) of 1941 PA 122, MCL
18 205.23, shall be added to the amount of the tax unpaid for the
19 period of the extension. The state treasurer shall require with the
20 application payment of the estimated tax liability unpaid for the
21 tax period covered by the extension.

22 (3) If a taxpayer is granted an extension of time within which
23 to file the federal income tax return for any tax year, the filing
24 of a copy of the request for extension together with a tentative
25 return and payment of an estimated tax with the department by the
26 due date provided in subsection (1) shall automatically extend the
27 due date for the filing of an annual or final return under this
28 part until the last day of the sixth month following the original
29 due date of the return. Interest at the rate under section 23(2) of

1 1941 PA 122, MCL 205.23, shall be added to the amount of the tax
2 unpaid for the period of the extension.

3 Sec. 835. (1) A taxpayer required to file a return under this
4 part may be required to furnish a true and correct copy of any
5 return or portion of any return filed under the provisions of the
6 internal revenue code.

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

12 Sec. 837. For tax years ending in 2021 only, if a taxpayer
13 elects to pay the tax under section 813 for the tax year ending in
14 2021 and the annual return filed under this part for that tax year
15 results in a refund, that refund is not subject to added interest
16 under section 30(3) of 1941 PA 122, MCL 205.30.

17 Sec. 839. (1) A taxpayer or a flow-through entity that did not
18 make the election under section 813 shall provide on or before the
19 due date of the return under section 833, upon the amendment of a
20 return filed under section 833 or the adjustment of the tax under
21 this part by the department, to any member to which the provision
22 of information is required by the internal revenue code all of the
23 following for the tax year:

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

27 (b) The member's allocable share of the reporting flow-through
28 entity's taxes calculated under section 815(2)(e) on or measured by
29 net income including the tax imposed by this part for the tax year.

1 The member's allocable share of taxes calculated under section
2 815(2) (e) and allocated to the reporting flow-through entity by
3 other flow-through entities with tax years ending on or within the
4 reporting flow-through entity's tax year.

5 (c) The member's allocable share of the reporting flow-through
6 entity's refund calculated under section 815(2) (g). The member's
7 allocable share of refunds calculated under section 815(2) (g) and
8 allocated to the reporting flow-through entity by other flow-
9 through entities with tax years ending on or within the reporting
10 flow-through entity's tax year.

11 (d) Each of the following:

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

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

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

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

1 gain.

2 (2) An estate or trust that is either a member of a flow-
3 through entity that elects to file a return and pay the tax imposed
4 under this part or a direct or indirect member of another flow-
5 through entity that elects to file a return and pay the tax imposed
6 under this part shall on or before the due date of the return
7 required under part 1 report to its beneficiaries their allocable
8 share of the tax imposed under this part and reported to the estate
9 or trust under section 839(1)(d) in the same tax year. The
10 allocable share is determined by multiplying the total amount of
11 tax imposed under this part and reported to the estate or trust
12 under section 839(1)(d) in the tax year by a percentage equal to a
13 fraction, the numerator of which is the flow-through entity
14 business income tax base that is distributed to the beneficiaries
15 and the denominator of which is the total flow-through entity
16 business income tax base that is included in distributable net
17 income.

18 Sec. 841. (1) The tax imposed by this part shall be
19 administered by the department of treasury pursuant to 1941 PA 122,
20 MCL 205.1 to 205.31, and this part. If a conflict exists between
21 1941 PA 122, MCL 205.1 to 205.31, and this part, the provisions of
22 this part apply.

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

26 (3) The department shall prescribe forms for use by taxpayers
27 and may promulgate rules in conformity with this part for the
28 maintenance by taxpayers of records, books, and accounts, and for
29 the computation of the tax, the manner and time of changing or

1 electing accounting methods and of exercising the various options
2 contained in this part, the making of returns, and the
3 ascertainment, assessment, and collection of the tax imposed under
4 this part.

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

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

13 (6) The department may require the taxpayer to remit any
14 payment due under this part to the department by an electronic
15 funds transfer method approved by the department.

16 Sec. 843. From the tax levied under this part, that percentage
17 of the gross collections before refunds that is equal to 1.012%
18 divided by the tax rate levied under this part shall be deposited
19 in the state school aid fund created in section 11 of article IX of
20 the state constitution of 1963 and the balance of the revenue
21 collected under this part after the distribution to the school aid
22 fund shall be deposited into the general fund.

23 Sec. 845. Notwithstanding any other provision of this act, a
24 person that is a disregarded entity for federal income tax purposes
25 under the internal revenue code shall be classified as a
26 disregarded entity for purposes of this part.

27 Sec. 847. The tax created under this part is levied and
28 imposed for any tax year that section 164(b)(6)(B) of the internal
29 revenue code limits the amount an individual is allowed to deduct

1 under section 164(a) of the internal revenue code for the same tax
2 year. The tax created under this part is not levied and imposed for
3 any tax year that section 164(b)(6)(B) of the internal revenue code
4 does not limit the amount an individual is allowed to deduct under
5 section 164(a) of the internal revenue code for the same tax year.

6 Enacting section 1. (1) Except as otherwise provided under
7 subsection (2) for section 30(1)(aa) as added by this amendatory
8 act, this amendatory act is retroactive and applies retroactively
9 effective for tax years beginning on and after January 1, 2021.

10 (2) Section 30(1)(aa) as added by this amendatory act is
11 retroactive and applies retroactively effective for the 2016, 2017,
12 2018, and 2019 tax years.