

# SENATE BILL No. 883

March 20, 2014, Introduced by Senator ANANICH and referred to the Committee on Banking and Financial Institutions.

A bill to amend 1967 PA 281, entitled  
"Income tax act of 1967,"  
by amending section 30 (MCL 206.30), as amended by 2012 PA 597.

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

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

5           (a) Add gross interest income and dividends derived from  
6 obligations or securities of states other than Michigan, in the  
7 same amount that has been excluded from adjusted gross income less  
8 related expenses not deducted in computing adjusted gross income  
9 because of section 265(a) (1) of the internal revenue code.

10           (b) Add taxes on or measured by income to the extent the taxes

1 have been deducted in arriving at adjusted gross income.

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

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

14 (e) Deduct, to the extent included in adjusted gross income,  
15 the following:

16 (i) Compensation, including retirement benefits, received for  
17 services in the armed forces of the United States.

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

20 (iii) ~~beginning~~ **BEGINNING** January 1, 2012, retirement or pension  
21 benefits received for services in the Michigan national guard.

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

25 (i) Retirement or pension benefits received from a federal  
26 public retirement system or from a public retirement system of or  
27 created by this state or a political subdivision of this state.

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

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

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

26           (v) The amount determined to be the section 22 amount eligible  
27 for the elderly and the permanently and totally disabled credit

1 provided in section 22 of the internal revenue code.

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

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

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

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

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

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

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

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

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

26 (C) The contract provides for enrollment by the contract's  
27 qualified beneficiary in not less than 4 years after the date on

1 which the contract is entered into.

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

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

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

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

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

1 education located outside this state with which a state institution  
2 of higher education has reciprocity.

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

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

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

15 (p) Beginning on and after January 1, 2007, subject to any  
16 limitation provided in this subdivision, a taxpayer who is a senior  
17 citizen may deduct to the extent included in adjusted gross income,  
18 interest, dividends, and capital gains received in the tax year not  
19 to exceed \$9,420.00 for a single return and \$18,840.00 for a joint  
20 return. The maximum amounts allowed under this subdivision shall be  
21 reduced by the amount of a deduction claimed for retirement  
22 benefits under subdivision (e) or a deduction claimed under  
23 subdivision (f) (i), (ii), (iv), or (v). For the 2008 tax year and each  
24 tax year after 2008, the maximum amounts allowed under this  
25 subdivision shall be adjusted by the percentage increase in the  
26 United States consumer price index for the immediately preceding  
27 calendar year. The department shall annualize the amounts provided

1 in this subdivision as necessary. Beginning January 1, 2012, the  
2 deduction under this subsection is not available to a senior  
3 citizen born after 1945. As used in this subdivision, "senior  
4 citizen" means that term as defined in section 514.

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

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

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

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

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

23 (s) Deduct, to the extent included in adjusted gross income,  
24 any amount, and any interest earned on that amount, received in the  
25 tax year by a taxpayer who is a Holocaust victim as a result of a  
26 settlement of claims against any entity or individual for any  
27 recovered asset pursuant to the German act regulating unresolved

1 property claims, also known as Gesetz zur Regelung offener  
2 Vermögensfragen, as a result of the settlement of the action  
3 entitled In re: Holocaust victim assets litigation, CV-96-4849, CV-  
4 96-5161, and CV-97-0461 (E.D. NY), or as a result of any similar  
5 action if the income and interest are not commingled in any way  
6 with and are kept separate from all other funds and assets of the  
7 taxpayer. As used in this subdivision:

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

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

17 (t) Deduct, to the extent not deducted in determining adjusted  
18 gross income, both of the following:

19 (i) Contributions made by the taxpayer in the tax year less  
20 qualified withdrawals made in the tax year from education savings  
21 accounts, calculated on a per education savings account basis,  
22 pursuant to the Michigan education savings program act, 2000 PA  
23 161, MCL 390.1471 to 390.1486, not to exceed a total deduction of  
24 \$5,000.00 for a single return or \$10,000.00 for a joint return per  
25 tax year. The amount calculated under this subparagraph for each  
26 education savings account shall not be less than zero.

27 (ii) The amount under section 30f.



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

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

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

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

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

26           (B) All interest and passive dividends.

27           (C) All rents and royalties derived from real property located

1 within the agreement area.

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

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

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

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

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

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

18 (J) All gaming winnings.

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

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

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

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

1 (w) For tax years beginning after December 31, 2011, eliminate  
2 all of the following:

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

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

7 **(X) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2013 AND END**  
8 **BEFORE JANUARY 1, 2018, DEDUCT, TO THE EXTENT INCLUDED IN ADJUSTED**  
9 **GROSS INCOME, INCOME DERIVED FROM THE CANCELLATION OF DEBT RELATED**  
10 **TO THE SALE OR FORECLOSURE OF THE TAXPAYER'S HOMESTEAD WITHIN THIS**  
11 **STATE AND REPORTED TO THE TAXPAYER IN A FEDERAL INCOME TAX FORM**  
12 **1099-C. FOR PURPOSES OF THIS SUBDIVISION, "HOMESTEAD" MEANS THAT**  
13 **TERM AS DEFINED UNDER SECTION 508.**

14 (2) Except as otherwise provided in subsection (7), a personal  
15 exemption of \$3,700.00 multiplied by the number of personal or  
16 dependency exemptions allowable on the taxpayer's federal income  
17 tax return pursuant to the internal revenue code shall be  
18 subtracted in the calculation that determines taxable income.

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

23 (a) \$1,800.00 for each taxpayer and every dependent of the  
24 taxpayer who is a deaf person as defined in section 2 of the deaf  
25 persons' interpreters act, 1982 PA 204, MCL 393.502; a paraplegic,  
26 a quadriplegic, or a hemiplegic; a person who is blind as defined  
27 in section 504; or a person who is totally and permanently disabled

1 as defined in section 522. When a dependent of a taxpayer files an  
2 annual return under this part, the taxpayer or dependent of the  
3 taxpayer, but not both, may claim the additional exemption allowed  
4 under this subdivision. As used in this subdivision, "dependent"  
5 means that term as defined in section 30e.

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

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

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

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

21 (4) An individual with respect to whom a deduction under  
22 section 151 of the internal revenue code is allowable to another  
23 federal taxpayer during the tax year is not considered to have an  
24 allowable federal exemption for purposes of subsection (2), but may  
25 subtract \$1,500.00 in the calculation that determines taxable  
26 income for a tax year.

27 (5) A nonresident or a part-year resident is allowed that

1 proportion of an exemption or deduction allowed under subsection  
2 (2), (3), or (4) that the taxpayer's portion of adjusted gross  
3 income from Michigan sources bears to the taxpayer's total adjusted  
4 gross income.

5 (6) In calculating taxable income, a taxpayer shall not  
6 subtract from adjusted gross income the amount of prizes won by the  
7 taxpayer under the McCauley-Traxler-Law-Bowman-McNeely lottery act,  
8 1972 PA 239, MCL 432.1 to 432.47.

9 (7) For each tax year beginning on and after January 1, 2013,  
10 the personal exemption allowed under subsection (2) shall be  
11 adjusted by multiplying the exemption for the tax year beginning in  
12 2012 by a fraction, the numerator of which is the United States  
13 consumer price index for the state fiscal year ending in the tax  
14 year prior to the tax year for which the adjustment is being made  
15 and the denominator of which is the United States consumer price  
16 index for the 2010-2011 state fiscal year. The resultant product  
17 shall be rounded to the nearest \$100.00 increment. As used in this  
18 section, "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. For each tax year, the exemptions allowed under  
22 subsection (3) shall be adjusted by multiplying the exemption  
23 amount under subsection (3) for the tax year by a fraction, the  
24 numerator of which is the United States consumer price index for  
25 the state fiscal year ending the tax year prior to the tax year for  
26 which the adjustment is being made and the denominator of which is  
27 the United States consumer price index for the 1998-1999 state

1 fiscal year. The resultant product shall be rounded to the nearest  
2 \$100.00 increment.

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

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

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

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

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

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

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

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

27 (ii) Plans maintained by a church or a convention or

1 association of churches.

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

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

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

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

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

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

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

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

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

27 (9) In determining taxable income under this section, the

1 following limitations and restrictions apply:

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

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

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



1 (ii), and (iv) is limited to \$70,000.00 for a joint return. After  
2 that person reaches the age of 67, the deductions under subsection  
3 (1)(f)(i), (ii), and (iv) do not apply and that person is eligible for  
4 a deduction of \$35,000.00 for a single return and \$55,000.00 for a  
5 joint return, or \$70,000.00 for a joint return if applicable, which  
6 deduction is available against all types of income and is not  
7 restricted to income from retirement or pension benefits. A person  
8 who takes the deduction under subsection (1)(e) is not eligible for  
9 the unrestricted deduction of \$35,000.00 for a single return and  
10 \$55,000.00 for a joint return, or \$70,000.00 for a joint return if  
11 applicable, under this subdivision.

12 (d) For a person born after 1952 who has reached the age of 62  
13 through 66 years of age and who receives retirement or pension  
14 benefits from employment with a governmental agency that was not  
15 covered by the federal social security act, chapter 532, 49 Stat.  
16 620, the sum of the deductions under subsection (1)(f)(i), (ii), and  
17 (iv) is limited to \$15,000.00 for a single return and, except as  
18 otherwise provided under this subdivision, \$15,000.00 for a joint  
19 return. If both the husband and ~~the~~ wife filing a joint return  
20 receive retirement or pension benefits from employment with a  
21 governmental agency that was not covered by the federal social  
22 security act, chapter 532, 49 Stat. 620, the sum of the deductions  
23 under subsection (1)(f)(i), (ii), and (iv) is limited to \$30,000.00  
24 for a joint return.

25 (e) Except as otherwise provided under subdivision (d), for a  
26 person born after 1952, the deduction under subsection (1)(f)(i),  
27 (ii), or (iv) does not apply. When that person reaches the age of 67,

1 that person is eligible for a deduction of \$20,000.00 for a single  
2 return and \$40,000.00 for a joint return, which deduction is  
3 available against all types of income and is not restricted to  
4 income from retirement or pension benefits. If a person takes the  
5 deduction of \$20,000.00 for a single return and \$40,000.00 for a  
6 joint return, that person shall not take the deduction under  
7 subsection (1)(f)(iii) and shall not take the personal exemption  
8 under subsection (2). That person may elect not to take the  
9 deduction of \$20,000.00 for a single return and \$40,000.00 for a  
10 joint return and elect to take the deduction under subsection  
11 (1)(f)(iii) and the personal exemption under subsection (2) if that  
12 election would reduce that person's tax liability. A person ~~that~~  
13 **WHO** takes the deduction under subsection (1)(e) is not eligible for  
14 the unrestricted deduction of \$20,000.00 for a single return and  
15 \$40,000.00 for a joint return under this subdivision.

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

19 (10) As used in this section, "oil and gas" means oil and gas  
20 that is subject to severance tax under 1929 PA 48, MCL 205.301 to  
21 205.317.