

MAKING GAMBLING LOSSES TAX DEDUCTIBLE

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Senate Bill 764 as enacted
Public Act 168 of 2021

Analysis available at
<http://www.legislature.mi.gov>

Sponsor: Sen. Curtis Hertel, Jr.
House Committee: [Placed on second reading]
Senate Committee: Finance
Complete to 8-26-22

SUMMARY:

Senate Bill 764 amended the Income Tax Act to add certain gambling losses to the items that can be deducted from a taxpayer's adjusted gross income (AGI), making up the taxpayer's *taxable income*.

Taxable income means, for a person other than a corporation, estate, or trust, adjusted gross income as defined in the federal Internal Revenue Code subject to specified adjustments under section 30 of the act.

Taxpayers file yearly tax returns at the federal and state level (and some cities in Michigan also require yearly tax returns). At the federal level, taxpayers declare their income and make allowable adjustments to exclude income that is not taxable in order to determine their AGI. Many of those adjustments, described in the Internal Revenue Code, are mirrored at the state level. Section 30 of the act lists the 26 categories that differ from the federal definition of AGI.

After calculating the various deductions at the federal level, the taxpayer decides whether to take the standard deduction (\$12,500 for single filers and \$25,100 for married couples filing jointly in 2021) or whether to itemize those deductions (as they would combine for a greater total than the standard deduction).

The bill provides that, for tax years that begin on and after January 1, 2021, a Michigan taxpayer who itemized deductions at the federal level can deduct gambling losses in the same amount at the state level as the taxpayer used on his or her federal return for that year. For a nonresident, only gambling losses that were placed at or through a Michigan casino or licensed race meeting could be deducted and could not exceed the taxpayer's gains in Michigan.

The bill is retroactive to tax years beginning January 1, 2021.

MCL 206.30

BRIEF DISCUSSION:

Some wonder how many people will truly benefit from this legislation, since only taxpayers who itemize their deductions on their federal return would be able to deduct their losses. In tax year 2019, only 7.15% of returns filed by Michigan residents contained itemized deductions (346,950 of the 4,850,520 filed). Presumably only a small proportion of that number realized gambling losses and would have been able to deduct them. While the Lawful Internet Gaming

Act took effect after that time, increasing the number of individuals participating in wagering activities, it is still likely to affect only a small portion of Michigan residents.

Additionally, while the deduction is only available for filers who itemize at the federal level, it will be extremely burdensome for the state to verify that those claiming the deduction itemized on their federal taxes.

FISCAL IMPACT:

Based on tax year (TY) 2018 federal tax return data on itemized deductions and gambling losses and TY 2019 federal returns filed by Michigan residents, the bill as written would reduce Michigan individual income tax revenue by between \$10.0 million to \$15.0 million on an annual basis.

In general, a smaller proportion of federal returns with itemized deductions are filed by Michigan residents than for the country as a whole. In addition, because the Tax Cut and Jobs Act increased the standard deduction and reduced/eliminated some itemized deductions, the percentage of filers at the national level that itemized deductions dropped from 31.0% in TY 2017 to 11.4% in TY 2018. In Michigan, the percentage of filers at the national level that itemized deductions dropped from 27.4% in TY 2017 to 7.6% in TY 2018.

To the extent that the ability to deduct gambling losses results in a refund, all of the revenue reduction would come from the general fund. However, if taxpayers reduce quarterly or annual payments instead, then approximately 23.8% of the revenue reduction would come from the School Aid Fund, with the remainder reducing general fund revenue.

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