

# HOUSE BILL NO. 5688

January 25, 2022, Introduced by Rep. Hornberger and referred to the Committee on Tax Policy.

A bill to amend 1967 PA 281, entitled  
"Income tax act of 1967,"  
by amending section 51 (MCL 206.51), as amended by 2020 PA 75.

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

1       Sec. 51. (1) For receiving, earning, or otherwise acquiring  
2 income from any source whatsoever, there is levied and imposed  
3 under this part upon the taxable income of every person other than  
4 a corporation a tax at the following rates in the following  
5 circumstances:

6       (a) On and after October 1, 2007 and before October 1, 2012,  
7 4.35%.

1           (b) ~~Except as otherwise provided under subdivision (c), on~~ **On**  
2 and after October 1, 2012 **and before January 1, 2023, 4.25%.**

3           **(c) Except as otherwise provided under subdivision (d), on and**  
4 **after January 1, 2023, 4.15%.**

5           (d) ~~(e)~~ For each tax year beginning on and after January 1,  
6 2023, if the percentage increase in the total general fund/general  
7 purpose revenue from the immediately preceding fiscal year is  
8 greater than the inflation rate for the same period and the  
9 inflation rate is positive, then the current rate shall be reduced  
10 by an amount determined by multiplying that rate by a fraction, the  
11 numerator of which is the difference between the total general  
12 fund/general purpose revenue from the immediately preceding state  
13 fiscal year and the capped general fund/general purpose revenue and  
14 the denominator of which is the total revenue collected from this  
15 part in the immediately preceding state fiscal year. For purposes  
16 of this subdivision only, the state treasurer, the director of the  
17 senate fiscal agency, and the director of the house fiscal agency  
18 shall determine whether the total revenue distributed to general  
19 fund/general purpose revenue has increased as required under this  
20 subdivision based on the comprehensive annual financial report  
21 prepared and published by the department of technology, management,  
22 and budget in accordance with section 23 of article IX of the state  
23 constitution of 1963. The state treasurer, the director of the  
24 senate fiscal agency, and the director of the house fiscal agency  
25 shall make the determination under this subdivision no later than  
26 the date of the January 2023 revenue estimating conference  
27 conducted pursuant to sections 367a through 367f of the management  
28 and budget act, 1984 PA 431, MCL 18.1367a to 18.1367f, and the date  
29 of each January revenue estimating conference conducted each year

1 thereafter. As used in this subdivision:

2 (i) "Capped general fund/general purpose revenue" means the  
3 total general fund/general purpose revenue from the 2020-2021 state  
4 fiscal year multiplied by the sum of 1 plus the product of 1.425  
5 times the difference between a fraction, the numerator of which is  
6 the Consumer Price Index for the state fiscal year ending in the  
7 tax year prior to the tax year for which the adjustment is being  
8 made and the denominator of which is the Consumer Price Index for  
9 the 2020-2021 state fiscal year, and 1.

10 (ii) "Total general fund/general purpose revenue" means the  
11 total general fund/general purpose revenue and other financing  
12 sources as published in the comprehensive annual financial report  
13 schedule of revenue and other financing sources - general fund for  
14 that fiscal year plus any distribution made pursuant to section  
15 51d.

16 (2) Except as otherwise provided for December 1, 2018 through  
17 September 30, 2019, beginning January 1, 2000, that percentage of  
18 the gross collections before refunds from the tax levied under this  
19 section that is equal to 1.012% divided by the income tax rate  
20 levied under this section shall be deposited in the state school  
21 aid fund created in section 11 of article IX of the state  
22 constitution of 1963. For December 1, 2018 through September 30,  
23 2019 only, that percentage of the gross collections before refunds  
24 from the tax levied under this section that is equal to 0.954%  
25 divided by the income tax rate levied under this section shall be  
26 deposited in the state school aid fund created in section 11 of  
27 article IX of the state constitution of 1963.

28 (3) In addition to the distributions under subsections (2) and  
29 (4) and sections 51d, 51e, and 51f, beginning October 1, 2016, from

1 the revenue collected under this section an amount equal to 3.5% of  
2 the average amount of farmland tax credits claimed under section  
3 36109 of the natural resources and environmental protection act,  
4 1994 PA 451, MCL 324.36109, for the immediately preceding 3 state  
5 fiscal years shall be deposited into the agricultural preservation  
6 fund created in section 36202 of the natural resources and  
7 environmental protection act, 1994 PA 451, MCL 324.36202.

8 (4) In addition to the distributions under subsections (2) and  
9 (3) and sections 51d, 51e, and 51f, and subject to the limitation  
10 under this subsection, beginning with the 2018-2019 state fiscal  
11 year and each fiscal year thereafter, from the revenue collected  
12 under this section \$69,000,000.00 shall be deposited into the renew  
13 Michigan fund created in section 51g. However, if, in any 1 of the  
14 2018-2019 through the 2021-2022 state fiscal years, the minimum  
15 foundation allowance falls below the 2017-2018 minimum foundation  
16 allowance established under section 20 of the state school aid act  
17 of 1979, 1979 PA 94, MCL 388.1620, as amended by 2017 PA 108, then  
18 no money shall be deposited into the renew Michigan fund pursuant  
19 to this subsection for that fiscal year.

20 (5) The department shall annualize rates provided in  
21 subsection (1) as necessary. The applicable annualized rate shall  
22 be imposed upon the taxable income of every person other than a  
23 corporation for those tax years.

24 (6) The taxable income of a nonresident shall be computed in  
25 the same manner that the taxable income of a resident is computed,  
26 subject to the allocation and apportionment provisions of this  
27 part.

28 (7) A resident beneficiary of a trust whose taxable income  
29 includes all or part of an accumulation distribution by a trust, as

defined in section 665 of the internal revenue code, shall be allowed a credit against the tax otherwise due under this part. The credit shall be all or a proportionate part of any tax paid by the trust under this part for any preceding taxable year that would not have been payable if the trust had in fact made distribution to its beneficiaries at the times and in the amounts specified in section 666 of the internal revenue code. The credit shall not reduce the tax otherwise due from the beneficiary to an amount less than would have been due if the accumulation distribution were excluded from taxable income.

(8) The taxable income of a resident who is required to include income from a trust in his or her federal income tax return under the provisions of 26 USC 671 to 679, shall include items of income and deductions from the trust in taxable income to the extent required by this part with respect to property owned outright.

(9) It is the intention of this section that the income subject to tax of every person other than corporations shall be computed in like manner and be the same as provided in the internal revenue code subject to adjustments specifically provided for in this part.

(10) As used in this section:

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

(b) "Inflation rate" means the annual percentage change in the Consumer Price Index, as determined by the department, comparing the 2 most recent completed state fiscal years.

(c) "Person other than a corporation" means a resident or

1 nonresident individual or any of the following:

2 (i) A ~~partner in a partnership as defined in the internal~~  
3 ~~revenue code.~~ **member of a flow-through entity.**

4 (ii) A beneficiary of an estate or a trust as defined in the  
5 internal revenue code.

6 (iii) An estate or trust as defined in the internal revenue  
7 code.

8 (d) "Taxable income" means taxable income as defined in this  
9 part subject to the applicable source and attribution rules  
10 contained in this part.