

HOUSE BILL NO. 4578

May 16, 2023, Introduced by Reps. Schmaltz, Roth, Harris, Bezotte, Wozniak, Mueller, Wilson, Mentzer, BeGole and Neyer and referred to the Committee on Tax Policy.

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending section 30 (MCL 206.30), as amended by 2023 PA 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

1 obligations or securities of states other than Michigan, in the
2 same amount that has been excluded from adjusted gross income less
3 related expenses not deducted in computing adjusted gross income
4 because of section 265(a)(1) of the internal revenue code.

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

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

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

21 (e) Deduct, to the extent included in adjusted gross income,
22 the following:

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

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

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

29 (f) Deduct the following to the extent included in adjusted

1 gross income subject to the limitations and restrictions set forth
2 in subsection (9), (10), or (11), as applicable:

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

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

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

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

1 (v) The amount determined to be the section 22 amount eligible
2 for the elderly and the permanently and totally disabled credit
3 provided in section 22 of the internal revenue code.

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

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

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

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

11 (i) The amount of a charitable contribution made to the advance
12 tuition payment fund created under section 9 of the Michigan
13 education 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 the purchaser's offer to enter into
4 an advance tuition payment contract rejected by the board of
5 directors of the Michigan education trust, if the board determines
6 that the trust cannot accept an unlimited number of enrollees upon
7 an 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.

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

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

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

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

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

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

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

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

10 (t) Deduct all of the following:

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

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

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

28 (u) Add, to the extent not included in adjusted gross income,
29 the amount of money withdrawn by the taxpayer in the tax year from

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

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

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

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

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

24 (B) All interest and passive dividends.

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

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

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

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

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

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

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

14 (J) All gaming winnings.

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

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

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

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

24 (w) Eliminate all of the following:

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

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

29 (x) Deduct all of the following:

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

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

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

17 (y) Add, to the extent not included in adjusted gross income,
18 the amount of money withdrawn by the taxpayer in the tax year from
19 an ABLE savings account, not to exceed the total amount deducted
20 under subdivision (x) in the tax year and all previous tax years,
21 if the withdrawal was not a qualified withdrawal as provided in the
22 Michigan achieving a better life experience (ABLE) program act,
23 2015 PA 160, MCL 206.981 to 206.997. This subdivision does not
24 apply to withdrawals that are less than the sum of all
25 contributions made to an ABLE savings account in all previous tax
26 years for which no deduction was claimed under subdivision (x),
27 less any contributions for which no deduction was claimed under
28 subdivision (x) that were withdrawn in all previous tax years.

29 (z) For tax years that begin after December 31, 2018, deduct,

1 to the extent included in adjusted gross income, compensation
2 received in the tax year pursuant to the wrongful imprisonment
3 compensation act, 2016 PA 343, MCL 691.1751 to 691.1757.

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

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

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

19 (bb) For tax years that begin on and after January 1, 2021,
20 and subject to the limitation under this subdivision, deduct, to
21 the extent not deducted in determining adjusted gross income,
22 wagering losses deducted under section 165(d) of the internal
23 revenue code on the taxpayer's federal income tax return for the
24 same tax year. For a nonresident, only wagering losses that are
25 attributable to wagering transactions placed at or through a casino
26 or licensed race meeting located in this state may be deducted and
27 must not exceed the gains on wagering transactions allocated to
28 this state under section 110(2)(d). As used in this subdivision,
29 "casino" and "licensed race meeting" mean those terms as defined in

1 section 110.

2 (cc) Except as otherwise provided under subparagraph (i), for
3 tax years that begin on and after January 1, 2022, deduct all of
4 the following:

5 (i) To the extent not deducted in determining adjusted gross
6 income, contributions made by the taxpayer in the tax year less
7 qualified withdrawals made in the tax year from a first-time home
8 buyer savings account, pursuant to the Michigan first-time home
9 buyer savings program act, 2022 PA 6, MCL 565.1001 to 565.1013, not
10 to exceed a total deduction of \$5,000.00 for a single return or
11 \$10,000.00 for a joint return per tax year. The amount calculated
12 under this subparagraph for a first-time home buyer savings account
13 shall not be less than zero. The deduction under this subparagraph
14 does not apply for tax years that begin after December 31, 2026.

15 (ii) To the extent not deducted in determining adjusted gross
16 income, interest earned in the tax year on the contributions to the
17 taxpayer's first-time home buyer savings account.

18 (iii) To the extent included in adjusted gross income,
19 distributions that are qualified withdrawals from a first-time home
20 buyer savings account to the qualified beneficiary of that savings
21 account.

22 (dd) For tax years that begin on and after January 1, 2022,
23 add, to the extent not included in adjusted gross income, the
24 amount of money withdrawn by the taxpayer in the tax year from a
25 first-time home buyer savings account, not to exceed the total
26 amount deducted under subdivision (cc) in the tax year and all
27 previous tax years, if the withdrawal was not a qualified
28 withdrawal as provided in the Michigan first-time home buyer
29 savings program act, 2022 PA 6, MCL 565.1001 to 565.1013. This

1 subdivision does not apply to withdrawals that are less than the
2 sum of all contributions made to a first-time home buyer savings
3 account in all previous tax years for which no deduction was
4 claimed under subdivision (cc), less any contributions for which no
5 deduction was claimed under subdivision (cc) that were withdrawn in
6 all previous tax years.

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

13 (a) Each taxpayer may claim 1 personal exemption. However, if
14 a joint return is not made by the taxpayer and the taxpayer's
15 spouse, the taxpayer may claim a personal exemption for the spouse
16 if the spouse, for the calendar year in which the taxable year of
17 the taxpayer begins, does not have any gross income and is not the
18 dependent of another taxpayer.

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

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

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

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

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

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

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

21 (iii) "Veteran" means an individual who served in the active
22 military, naval, marine, coast guard, or air service and who was
23 discharged or released from the individual's service with an
24 honorable or general discharge.

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

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

6 (6) In calculating taxable income, a taxpayer shall not
7 subtract from adjusted gross income the amount of prizes won by the
8 taxpayer under the McCauley-Traxler-Law-Bowman-McNeely lottery act,
9 1972 PA 239, MCL 432.1 to 432.47.

10 (7) For each tax year beginning on and after January 1, 2013,
11 the personal exemption allowed under subsection (2) shall be
12 adjusted by multiplying the exemption for the tax year beginning in
13 2012 by a fraction, the numerator of which is the United States
14 Consumer Price Index for the state fiscal year ending in the tax
15 year prior to the tax year for which the adjustment is being made
16 and the denominator of which is the United States Consumer Price
17 Index for the 2010-2011 state fiscal year. For the 2022 tax year
18 and each tax year after 2022, the adjusted amount determined under
19 this subsection shall be increased by an additional \$600.00. The
20 resultant product shall be rounded to the nearest \$100.00
21 increment. 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
28 fiscal year. The resultant product shall be rounded to the nearest
29 \$100.00 increment.

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

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

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

8 (ii) Individual retirement accounts that qualify under section
9 408 of the internal revenue code if the distributions are not made
10 until the participant has reached 59-1/2 years of age, except in
11 the case of death, disability, or distributions described by
12 section 72(t)(2)(A)(iv) of the internal revenue code.

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

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

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

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

25 (ii) Plans maintained by a church or a convention or
26 association of churches.

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

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

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

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

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

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

14 (a) (iv) .

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

17 (a) (iii) .

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

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

23 (9) Except as otherwise provided in subsection (10) or (11),
24 in determining taxable income under this section, the following
25 limitations and restrictions apply:

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

28 (b) Except as otherwise provided in subdivision (c), for a
29 person born in 1946 through 1952, the sum of the deductions under

1 subsection (1) (f) (i), (ii), and (iv) is limited to \$20,000.00 for a
2 single return and \$40,000.00 for a joint return. After that person
3 reaches the age of 67, the deductions under subsection (1) (f) (i),
4 (ii), and (iv) do not apply and that person is eligible for a
5 deduction of \$20,000.00 for a single return and \$40,000.00 for a
6 joint return, which deduction is available against all types of
7 income and is not restricted to income from retirement or pension
8 benefits. A person who takes the deduction under subsection (1) (e)
9 is not eligible for the unrestricted deduction of \$20,000.00 for a
10 single return and \$40,000.00 for a joint return under this
11 subdivision.

12 (c) Beginning January 1, 2013 for a person born in 1946
13 through 1952 and beginning January 1, 2018 for a person born after
14 1945 who has retired as of January 1, 2013, if that person receives
15 retirement or pension benefits from employment with a governmental
16 agency that was not covered by the federal social security act,
17 chapter 531, 49 Stat 620, the sum of the deductions under
18 subsection (1) (f) (i), (ii), and (iv) is limited to \$35,000.00 for a
19 single return and, except as otherwise provided under this
20 subdivision, \$55,000.00 for a joint return. If both spouses filing
21 a joint return receive retirement or pension benefits from
22 employment with a governmental agency that was not covered by the
23 federal social security act, chapter 531, 49 Stat 620, the sum of
24 the deductions under subsection (1) (f) (i), (ii), and (iv) is limited
25 to \$70,000.00 for a joint return. After that person reaches the age
26 of 67, the deductions under subsection (1) (f) (i), (ii), and (iv) do
27 not apply and that person is eligible for a deduction of \$35,000.00
28 for a single return and \$55,000.00 for a joint return, or
29 \$70,000.00 for a joint return if applicable, which deduction is

1 available against all types of income and is not restricted to
2 income from retirement or pension benefits. A person who takes the
3 deduction under subsection (1)(e) is not eligible for the
4 unrestricted deduction of \$35,000.00 for a single return and
5 \$55,000.00 for a joint return, or \$70,000.00 for a joint return if
6 applicable, under this subdivision.

7 (d) Except as otherwise provided under subdivision (c) for a
8 person who was retired as of January 1, 2013, for a person born
9 after 1952 who has reached the age of 62 through 66 years of age
10 and who receives retirement or pension benefits from employment
11 with a governmental agency that was not covered by the federal
12 social security act, chapter 531, 49 Stat 620, the sum of the
13 deductions under subsection (1)(f)(i), (ii), and (iv) is limited to
14 \$15,000.00 for a single return and, except as otherwise provided
15 under this subdivision, \$15,000.00 for a joint return. If both
16 spouses filing a joint return receive retirement or pension
17 benefits from employment with a governmental agency that was not
18 covered by the federal social security act, chapter 531, 49 Stat
19 620, the sum of the deductions under subsection (1)(f)(i), (ii), and
20 (iv) is limited to \$30,000.00 for a joint return.

21 (e) Except as otherwise provided under subdivision (c) or (d),
22 for a person born after 1952, the deduction under subsection
23 (1)(f)(i), (ii), or (iv) does not apply. When that person reaches the
24 age of 67, that person is eligible for a deduction of \$20,000.00
25 for a single return and \$40,000.00 for a joint return, which
26 deduction is available against all types of income and is not
27 restricted to income from retirement or pension benefits. If a
28 person takes the deduction of \$20,000.00 for a single return and
29 \$40,000.00 for a joint return, that person shall not take the

1 deduction under subsection (1) (f) (iii) and shall not take the
2 personal exemption under subsection (2). That person may elect not
3 to take the deduction of \$20,000.00 for a single return and
4 \$40,000.00 for a joint return and elect to take the deduction under
5 subsection (1) (f) (iii) and the personal exemption under subsection
6 (2) if that election would reduce that person's tax liability. A
7 person who takes the deduction under subsection (1) (e) is not
8 eligible for the unrestricted deduction of \$20,000.00 for a single
9 return and \$40,000.00 for a joint return under this subdivision.

10 (f) For a joint return, the limitations and restrictions in
11 this subsection shall be applied based on the date of birth of the
12 older spouse filing the joint return. If a deduction under
13 subsection (1) (f) was claimed on a joint return for a tax year in
14 which a spouse died and the surviving spouse has not remarried
15 since the death of that spouse, the surviving spouse is entitled to
16 claim the deduction under subsection (1) (f) in subsequent tax years
17 subject to the same restrictions and limitations, for a single
18 return, that would have applied based on the date of birth of the
19 older of the 2 spouses. For tax years beginning after December 31,
20 2019, a surviving spouse born after 1945 who has reached the age of
21 67 and has not remarried since the death of that spouse may elect
22 to take the deduction that is available against all types of income
23 subject to the same limitations and restrictions as provided under
24 this subsection based on the surviving spouse's date of birth
25 instead of taking the deduction allowed under subsection (1) (f),
26 for a single return, based on the date of birth of the older
27 spouse.

28 (10) In determining taxable income under this section, a
29 taxpayer may elect to deduct retirement or pension benefits as

1 provided under subsection (1)(f) with the following limitations and
2 restrictions or elect to apply the limitations and restrictions in
3 subsection (9), or subsection (11) if applicable:

4 (a) For the 2023 tax year, a taxpayer who was born after 1945
5 and before 1959 may deduct an amount of retirement or pension
6 benefits not to exceed 25% of the maximum amount of retirement or
7 pension benefits that the taxpayer would be allowed to deduct for
8 the tax year under subsection (1)(f)(iv) if the taxpayer's
9 retirement or pension benefits were subject to the limitations of
10 that subsection only.

11 (b) For the 2024 tax year, a taxpayer who was born after 1945
12 and before 1963 may deduct an amount of retirement or pension
13 benefits not to exceed 50% of the maximum amount of retirement or
14 pension benefits that the taxpayer would be allowed to deduct for
15 the tax year under subsection (1)(f)(iv) if the taxpayer's
16 retirement or pension benefits were subject to the limitations of
17 that subsection only.

18 (c) For the 2025 tax year, a taxpayer who was born after 1945
19 and before 1967 may deduct an amount of retirement or pension
20 benefits not to exceed 75% of the maximum amount of retirement or
21 pension benefits that the taxpayer would be allowed to deduct for
22 the tax year under subsection (1)(f)(iv) if the taxpayer's
23 retirement or pension benefits were subject to the limitations of
24 that subsection only.

25 (d) For the 2026 tax year and each tax year after 2026, a
26 taxpayer may deduct retirement or pension benefits as provided
27 under subsection (1)(f), except that the amounts deductible under
28 subsection (1)(f)(i) and (ii) combined are subject to the same
29 maximum amounts allowed under subsection (1)(f)(iv) for a single

1 return and a joint return for that same tax year.

2 (e) For a joint return, the limitations and restrictions in
3 this subsection shall be applied based on the date of birth of the
4 older spouse filing the joint return. If a deduction under
5 subsection (1)(f) was claimed on a joint return for a tax year in
6 which a spouse died and the surviving spouse has not remarried
7 since the death of that spouse, the surviving spouse is entitled to
8 claim the deduction under subsection (1)(f) in subsequent tax years
9 subject to the same restrictions and limitations under this
10 subsection, for a single return, that would have applied based on
11 the date of birth of the older of the 2 spouses.

12 (11) For tax years beginning on and after January 1, 2023, in
13 determining taxable income under this section, a taxpayer with
14 retirement or pension benefits received for services as a public
15 police or fire department employee subject to 1969 PA 312, MCL
16 423.231 to 423.247, a state police trooper or state police sergeant
17 subject to 1980 PA 17, MCL 423.271 to 423.287, or a corrections
18 officer employed by **this state or** a county sheriff in a county
19 jail, work camp, or other facility maintained by a county that
20 houses adult prisoners may elect to deduct retirement or pension
21 benefits as provided under subsection (1)(f) without any additional
22 limitations or restrictions or elect to apply the limitations and
23 restrictions in subsection (9) or (10).

24 (12) As used in this section:

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

27 (b) "Senior citizen" means that term as defined in section
28 514.

29 (c) "United States Consumer Price Index" means the United

1 States Consumer Price Index for all urban consumers as defined and
2 reported by the United States Department of Labor, Bureau of Labor
3 Statistics.

4 Enacting section 1. This amendatory act is intended to be
5 retroactive and applies retroactively effective for tax years
6 beginning on and after January 1, 2023.