SENATE BILL NO. 51

February 01, 2023, Introduced by Senator ALBERT and referred to the Committee on Finance, Insurance, and Consumer Protection.

A bill to amend 1967 PA 281, entitled

"Income tax act of 1967,"

by amending sections 30 and 51 (MCL 206.30 and 206.51), section 30 as amended by 2022 PA 5 and section 51 as amended by 2020 PA 75.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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

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

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

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

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

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

(f) Deduct the following to the extent included in adjusted gross income subject to the limitations and restrictions set forth in ~~subsection~~ **subsections** (9) **and (10), as applicable**:

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

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

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

(*iv*) Beginning on and after January 1, ~~2007,~~ **2022**, retirement or pension benefits not deductible under subparagraph (*i*) or subdivision (e) from any other retirement or pension system or benefits from a retirement annuity policy in which payments are made for life to a senior citizen, to a maximum of ~~$42,240.00~~ **$56,961.00** for a single return and ~~$84,480.00~~ **$113,922.00** for a joint return. The maximum amounts allowed under this subparagraph shall be reduced by the amount of the deduction for retirement or pension benefits claimed under subparagraph (*i*) or subdivision (e) and by the amount of a deduction claimed under subdivision (p). For the ~~2008~~ **2023** tax year and each tax year after ~~2008,~~ **2023**, the maximum amounts allowed under this subparagraph shall be adjusted by the percentage increase in the United States Consumer Price

Index. ~~for the immediately preceding calendar year.~~ The department shall annualize the amounts provided in this subparagraph as necessary.

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

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

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

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

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

(*i*) The amount of a charitable contribution made to the advance tuition payment fund created under section 9 of the Michigan education trust act, 1986 PA 316, MCL 390.1429.

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

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

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

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

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

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

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

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

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

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

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

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

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

(p) Beginning on and after January 1, ~~2007,~~ **2022,** subject to any limitation provided in this subdivision, a taxpayer who is a senior citizen may deduct to the extent included in adjusted gross income, interest, dividends, and capital gains received in the tax year not to exceed ~~$9,420.00~~ **$12,697.00** for a single return and ~~$18,840.00~~ **$25,394.00** for a joint return. The maximum amounts allowed under this subdivision shall be reduced by the amount of a deduction claimed for retirement or pension benefits under subdivision (e) or a deduction claimed under subdivision (f)(*i*), (*ii*), (*iv*), or (*v*). For the ~~2008~~ **2023** tax year and each tax year after ~~2008,~~ **2023,** the maximum amounts allowed under this subdivision shall be adjusted by the percentage increase in the United States Consumer Price Index. ~~for the immediately preceding calendar year.~~ The department shall annualize the amounts provided in this subdivision as necessary. Beginning January 1, 2012, the deduction under this subdivision is not available to a senior citizen born after 1945.

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

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

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

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

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

(s) Deduct, to the extent included in adjusted gross income, any amount, and any interest earned on that amount, received in the tax year by a taxpayer who is a Holocaust victim as a result of a settlement of claims against any entity or individual for any recovered asset pursuant to the German act regulating unresolved property claims, also known as Gesetz zur Regelung offener Vermogensfragen, as a result of the settlement of the action entitled *In re: Holocaust victim assets litigation*, CV-96-4849, CV-

96-5161, and CV-97-0461 (E.D. NY), or as a result of any similar action if the income and interest are not commingled in any way with and are kept separate from all other funds and assets of the taxpayer. As used in this subdivision:

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

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

(t) Deduct all of the following:

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

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

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

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

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

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

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

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

(B) All interest and passive dividends.

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

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

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

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

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

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

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

(J) All gaming winnings.

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

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

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

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

(w) Eliminate all of the following:

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

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

(x) Deduct all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

(dd) For tax years that begin on and after January 1, 2022, add, to the extent not included in adjusted gross income, the amount of money withdrawn by the taxpayer in the tax year from a first-time home buyer savings account, not to exceed the total amount deducted under subdivision (cc) in the tax year and all previous tax years, if the withdrawal was not a qualified withdrawal as provided in the Michigan first-time home buyer savings program act**, 2022 PA 6, MCL 565.1001 to 565.1013.** This subdivision does not apply to withdrawals that are less than the sum of all contributions made to a first-time home buyer savings account in all previous tax years for which no deduction was claimed under subdivision (cc), less any contributions for which no deduction was claimed under subdivision (cc) that were withdrawn in all previous tax years.

(2) Except as otherwise provided in subsection (7)**,** ~~and section 30a,~~ **beginning on and after January 1, 2023,** a personal exemption of ~~$3,700.00~~ **$10,000.00 shall be subtracted in the calculation that determines taxable income. Each taxpayer may claim 1 personal exemption. However, if a joint return is not made by the taxpayer and the taxpayer's spouse, the taxpayer may claim a personal exemption for the spouse if the spouse, for the calendar year in which the taxable year of the taxpayer begins, does not have any gross income and is not the dependent of another taxpayer. Except as otherwise provided in subsection (7), beginning on and after January 1, 2022, a dependency exemption of $5,000.00** multiplied by the number of ~~personal and~~ dependency exemptions shall be subtracted in the calculation that determines taxable income. The number of ~~personal and~~ dependency exemptions allowed shall be determined as follows:

~~(a) Each taxpayer may claim 1 personal exemption. However, if a joint return is not made by the taxpayer and his or her spouse, the taxpayer may claim a personal exemption for the spouse if the spouse, for the calendar year in which the taxable year of the~~

~~taxpayer begins, does not have any gross income and is not the dependent of another taxpayer~~.

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

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

(3) Except as otherwise provided in subsection (7), **beginning on and after January 1, 2022**, a single additional exemption determined as follows shall be subtracted in the calculation that determines taxable income in each of the following circumstances:

(a) ~~$1,800.00~~ **$2,900.00** for each taxpayer and every dependent of the taxpayer who is a deaf person as defined in section 2 of the deaf persons' interpreters act, 1982 PA 204, MCL 393.502; a paraplegic, a quadriplegic, or a hemiplegic; a person who is blind as defined in section 504; or a person who is totally and permanently disabled as defined in section 522. When a dependent of a taxpayer files an annual return under this part, the taxpayer or dependent of the taxpayer, but not both, may claim the additional exemption allowed under this subdivision.

(b) ~~For tax years beginning after 2007, $250.00~~ **$400.00** for each taxpayer and every dependent of the taxpayer who is a qualified disabled veteran. When a dependent of a taxpayer files an annual return under this part, the taxpayer or dependent of the taxpayer, but not both, may claim the additional exemption allowed under this subdivision. As used in this subdivision:

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

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

(*iii*) "Veteran" means ~~a person~~ **an individual** who served in the active military, naval, marine, coast guard, or air service and who was discharged or released from ~~his or her~~ **the individual's** service with an honorable or general discharge.

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

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

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

(7) For each tax year beginning on and after January 1, ~~2013,~~ **2024,** the personal exemption allowed under subsection (2) shall be adjusted by multiplying the exemption for the tax year beginning in ~~2012~~ **2023** by a fraction, the numerator of which is the United States Consumer Price Index for the state fiscal year ending in the tax year prior to the tax year for which the adjustment is being

made and the denominator of which is the United States Consumer Price Index for the ~~2010-2011~~ **2021-2022** state fiscal year. ~~For the 2022 tax year and each tax year after 2022, the adjusted amount determined under this subsection shall be increased by an additional $600.00. The resultant product shall be rounded to the nearest $100.00 increment.~~ For each tax year **beginning on and after January 1, 2023**, the **dependency and additional** exemptions allowed under ~~subsection~~ **subsections (2) and** (3) shall be adjusted by ~~multiplying the exemption amount under subsection (3) for the tax year by a fraction, the numerator of which is the United States Consumer Price Index for the state fiscal year ending the tax year prior to the tax year for which the adjustment is being made and the denominator of which is~~ the **percentage increase in the** United States Consumer Price Index. ~~for the 1998-1999 state fiscal year.~~ **The department shall annualize the amounts provided in this subsection as necessary.** The resultant product shall be rounded to the nearest $100.00 increment.

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

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

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

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

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

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

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

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

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

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

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

(d) Retirement and pension benefits do not include:

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

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

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

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

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

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

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

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

(b) ~~Except as otherwise provided in subdivision (c), for a person born in 1946 through 1952, the sum of the deductions under subsection (1)(f)(*i*), (*ii*), and (*iv*) is limited to $20,000.00 for a single return and $40,000.00 for a joint return. After that person reaches the age of 67,~~ **Except as otherwise provided in subdivision (c) or (d), for a person born after 1945**, the deductions under subsection (1)(f)(*i*), (*ii*), and (*iv*) do not apply. ~~and~~ **Through December 31, 2022, when that person reaches the age of 67, and beginning on and after January 1, 2023, when that person reaches the age of 65,** that person is eligible for a deduction of $20,000.00 for a single return and $40,000.00 for a joint return, which deduction is available against all types of income and is not restricted to income from retirement or pension benefits. A person who takes the deduction under subsection (1)(e) is not eligible for the unrestricted deduction of $20,000.00 for a single return and

$40,000.00 for a joint return under this subdivision.

(c) Beginning January 1, 2013 for a person born in 1946 through 1952 and beginning January 1, 2018 for a person born after 1945 who has retired as of January 1, 2013, if that person receives retirement or pension benefits from employment with a governmental agency that was not covered by the federal social security act, chapter 531, 49 Stat 620, the sum of the deductions under subsection (1)(f)(*i*), (*ii*), and (*iv*) is limited to $35,000.00 for a single return and, except as otherwise provided under this subdivision, $55,000.00 for a joint return. If both spouses filing a joint return receive retirement or pension benefits from employment with a governmental agency that was not covered by the federal social security act, chapter 531, 49 Stat 620, the sum of the deductions under subsection (1)(f)(*i*), (*ii*), and (*iv*) is limited to $70,000.00 for a joint return. After that person reaches the age of 67, the deductions under subsection (1)(f)(*i*), (*ii*), and (*iv*) do not apply and that person is eligible for a deduction of $35,000.00 for a single return and $55,000.00 for a joint return, or $70,000.00 for a joint return if applicable, which deduction is available against all types of income and is not restricted to income from retirement or pension benefits. A person who takes the deduction under subsection (1)(e) is not eligible for the unrestricted deduction of $35,000.00 for a single return and $55,000.00 for a joint return, or $70,000.00 for a joint return if applicable, under this subdivision.

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

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

(e) ~~(f)~~ For a joint return, the limitations and restrictions in this subsection shall be applied based on the date of birth of the older spouse filing the joint return. If a deduction under subsection (1)(f) was claimed on a joint return for a tax year in which a spouse died and the surviving spouse has not remarried since the death of that spouse, the surviving spouse is entitled to claim the deduction under subsection (1)(f) in subsequent tax years subject to the same restrictions and limitations, for a single return, that would have applied based on the date of birth of the older of the 2 spouses. For tax years beginning after December 31, 2019 **and before January 1, 2023**, a surviving spouse born after 1945 who has reached the age of 67 and has not remarried since the death of that spouse may elect to take the deduction that is available against all types of income subject to the same limitations and restrictions as provided under this subsection based on the surviving spouse's date of birth instead of taking the deduction allowed under subsection (1)(f), for a single return, based on the date of birth of the older spouse. **For tax years beginning after December 31, 2022, a surviving spouse born after 1945 who has reached the age of 65 and has not remarried since the death of that spouse may elect to take the deduction that is available against all types of income subject to the same limitations and restrictions as provided under this subsection based on the surviving spouse's date of birth instead of taking the deduction allowed under subsection (1)(f), for a single return, based on the date of birth of the older spouse.**

(10) In determining taxable income under this section, a person who elects to take the unrestricted deduction allowed under subsection (9) and after that unrestricted deduction still has income from retirement or pension benefits that the taxpayer would

be allowed to deduct for the tax year under subsection (1)(f)(*i*), (*ii*), or (*iv*) if the taxpayer's retirement or pension benefits were not subject to the limitations and restrictions of subsection (9), that taxpayer may take an additional restricted deduction of those retirement or pension benefits to a maximum of $20,000.00 for a single return and $40,000.00 for a joint return.

(11) ~~(10)~~ As used in this section:

(a) "Adjusted by the percentage increase in the United States Consumer Price Index" means adjusted by multiplying the amount allowed for the 2022 tax year by a fraction, the numerator of which is the United States Consumer Price Index for the state fiscal year ending in the tax year prior to the tax year for which the adjustment is being made and the denominator of which is the United States Consumer Price Index for the 2020-2021 state fiscal year.

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

(c) ~~(b)~~ "Senior citizen" means that term as defined in section 514.

(d) ~~(c)~~ "United States 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.

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

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

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

(c) Except as otherwise provided under subdivision (d), on and after January 1, 2023, 4.1% or the rate determined under subdivision (d), whichever is less.

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

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

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

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

(3) In addition to the distributions under subsections (2) and

(4) and sections 51d, 51e, and 51f, beginning October 1, 2016, from the revenue collected under this section an amount equal to 3.5% of the average amount of farmland tax credits claimed under section 36109 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.36109, for the immediately preceding 3 state fiscal years shall be deposited into the agricultural preservation fund created in section 36202 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.36202.

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

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

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

(7) A resident beneficiary of a trust whose taxable income

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 nonresident individual or any of the following:

(*i*) A partner in a partnership as defined in the internal revenue code.

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

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

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

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