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House Bill 4171 (Substitute H-1 as passed by the House)
Sponsor: Representative Julie Alexander
House Committee: Tax Policy
Ways and Means
Senate Committee: Finance

Date Completed: 2-11-20

CONTENT

The bill would amend the Income Tax Act to allow a widow or widower to claim a tax deduction that would have applied to his or her late spouses if he or she were still alive and the widow or widower had not remarried since the death of his or her spouse.

Part 1 of the Act imposes a tax at the rate of 4.25% on the taxable income of individuals. When determining taxable income, certain limitations and restrictions apply. For a joint return, limitations and restrictions must be applied based on the age of the older spouse filing the joint return. Under the bill, the limitations and restrictions would have to be applied based on the older spouse's date of birth.

Under the bill, if a deduction under Section 30(1)(f) were claimed on a joint return for a tax year in which a spouse died and the surviving spouse had not remarried since the death of that spouse, the surviving spouse would be entitled to claim that deduction 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 two spouses.

(Under Section 30(1)(f), "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 deduction of the following to the extent included in adjusted gross income (subject to certain limitations and restrictions):

-- Retirement or pension benefits received from a Federal public retirement system or from a public retirement system of or created by the State or a political subdivision of the State.
-- 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 the State or any of the political subdivisions of the State.
-- Social Security benefits as defined in the Internal Revenue Code.
-- Beginning on and after January 1, 2007, retirement or pension benefits not deductible under certain provisions 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 for a single return and $84,480 for a joint return (these amounts must be adjusted annually according to the United States Consumer Price Index).

-- The amount determined to be the amount eligible for the Elderly and the Permanently and Totally Disabled Credit in Section 22 of the Internal Revenue Code.

Under Section 22 of the Internal Revenue Code, a "qualified individual", which means a person who is 65 years old before the close of the taxable year or who retired on disability before the close of the taxable year and who, when retired, was permanently and totally disabled, may claim a credit against the tax imposed under the Code, subject to certain special rules. The credit amount ranges from $3,750 and $7,500.)

Under the bill, for tax years beginning after December 31, 2019, a surviving spouse born after 1945 who had reached the age of 67 and had not remarried since the death of that spouse could elect to take the deduction that was available against all types of income subject to certain limitations and restrictions based on the surviving spouse's date of birth instead of taking the deduction allowed under Section 30(1)(f), for a single return, based on the date of birth of the older spouse.

MCL 206.30 Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill would reduce General Fund and School Aid Fund revenue by an unknown amount, depending on the particular characteristics of affected taxpayers. The number of affected taxpayers also is unknown, but would be limited to circumstances in which a married taxpayer's spouse died and the surviving spouse was enough younger than the deceased that the surviving spouse's income would be treated differently under the individual income tax. For example, if both members of a couple were born before 1946, the death would not change the treatment of the survivor's income. Alternatively, under current law, if one of the couple were born in 1945 and the other were born in 1953, and the older person died, current law would treat the survivor's income differently. Similarly, the income would be treated differently for a couple, both born after 1952, in which the older person was age 67 or older at death, but the surviving spouse had not yet reached the age of 67.

Under current law, approximately 22.45% of gross individual income tax revenue is directed to the School Aid Fund, with any remaining revenue directed to the General Fund.

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.