

HOUSE BILL No. 4976

September 14, 2011, Introduced by Rep. Knollenberg 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 2011 PA 38.

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

10 (b) Add taxes on or measured by income to the extent the taxes

1 have been deducted in arriving at adjusted gross income.

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

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

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

16 (i) Compensation, including retirement benefits, received for
17 services in the armed forces of the United States.

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

20 (f) Deduct the following to the extent included in adjusted
21 gross income subject to the limitations and restrictions set forth
22 in subsection (9):

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

26 (ii) Retirement or pension benefits received from a public
27 retirement system of or created by another state or any of its

1 political subdivisions if the income tax laws of the other state
2 permit a similar deduction or exemption or a reciprocal deduction
3 or exemption of a retirement or pension benefit received from a
4 public retirement system of or created by this state or any of the
5 political subdivisions of this state.

6 (iii) Social security benefits as defined in section 86 of the
7 internal revenue code.

8 (iv) Beginning on and after January 1, 2007, retirement or
9 pension benefits not deductible under subparagraph (i) or
10 subdivision (e) from any other retirement or pension system or
11 benefits from a retirement annuity policy in which payments are
12 made for life to a senior citizen, to a maximum of \$42,240.00 for a
13 single return and \$84,480.00 for a joint return. The maximum
14 amounts allowed under this subparagraph shall be reduced by the
15 amount of the deduction for retirement or pension benefits claimed
16 under subparagraph (i) or subdivision (e) and by the amount of a
17 deduction claimed under subdivision (p). For the 2008 tax year and
18 each tax year after 2008, the maximum amounts allowed under this
19 subparagraph shall be adjusted by the percentage increase in the
20 United States consumer price index for the immediately preceding
21 calendar year. The department shall annualize the amounts provided
22 in this subparagraph as necessary. As used in this subparagraph,
23 "senior citizen" means that term as defined in section 514.

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

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

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

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

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

7 (i) For the 2010 tax year and each tax year after 2010, the
8 amount of a charitable contribution made to the advance tuition
9 payment fund created under section 9 of the Michigan education
10 trust act, 1986 PA 316, MCL 390.1429.

11 (ii) The amount of payment made under an advance tuition
12 payment contract as provided in the Michigan education trust act,
13 1986 PA 316, MCL 390.1421 to 390.1442.

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

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

20 (B) The contract applies only for a state institution of
21 higher education as defined in the Michigan education trust act,
22 1986 PA 316, MCL 390.1421 to 390.1442, or a community or junior
23 college in Michigan.

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

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

1 following:

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

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

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

19 (l) Deduct from the taxable income of a purchaser the amount
20 included as income to the purchaser under the internal revenue code
21 after the advance tuition payment contract entered into under the
22 Michigan education trust act, 1986 PA 316, MCL 390.1421 to
23 390.1442, is terminated because the qualified beneficiary attends
24 an institution of postsecondary education other than either a state
25 institution of higher education or an institution of postsecondary
26 education located outside this state with which a state institution
27 of higher education has reciprocity.

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

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

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

13 (p) Beginning on and after January 1, 2007, subject to any
14 limitation provided in this subdivision, a taxpayer who is a senior
15 citizen may deduct to the extent included in adjusted gross income,
16 interest, dividends, and capital gains received in the tax year not
17 to exceed \$9,420.00 for a single return and \$18,840.00 for a joint
18 return. The maximum amounts allowed under this subdivision shall be
19 reduced by the amount of a deduction claimed for retirement
20 benefits under subdivision (e) or a deduction claimed under
21 subdivision (f) (i), (ii), (iv), or (v). For the 2008 tax year and each
22 tax year after 2008, the maximum amounts allowed under this
23 subdivision shall be adjusted by the percentage increase in the
24 United States consumer price index for the immediately preceding
25 calendar year. The department shall annualize the amounts provided
26 in this subdivision as necessary. Beginning January 1, 2012, the
27 deduction under this subsection is not available to a senior

1 citizen born after 1945. As used in this subdivision, "senior
2 citizen" means that term as defined in section 514.

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

5 (i) The amount of a refund received in the tax year based on
6 taxes paid under this part.

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

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

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

21 (s) Deduct, to the extent included in adjusted gross income,
22 any amount, and any interest earned on that amount, received in the
23 tax year by a taxpayer who is a Holocaust victim as a result of a
24 settlement of claims against any entity or individual for any
25 recovered asset pursuant to the German act regulating unresolved
26 property claims, also known as Gesetz zur Regelung offener
27 Vermögensfragen, as a result of the settlement of the action

1 entitled In re: Holocaust victim assets litigation, CV-96-4849, CV-
2 96-5161, and CV-97-0461 (E.D. NY), or as a result of any similar
3 action if the income and interest are not commingled in any way
4 with and are kept separate from all other funds and assets of the
5 taxpayer. As used in this subdivision:

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

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

15 (t) Deduct, to the extent not deducted in determining adjusted
16 gross income, both of the following:

17 (i) Contributions made by the taxpayer in the tax year less
18 qualified withdrawals made in the tax year from education savings
19 accounts, calculated on a per education savings account basis,
20 pursuant to the Michigan education savings program act, 2000 PA
21 161, MCL 390.1471 to 390.1486, not to exceed a total deduction of
22 \$5,000.00 for a single return or \$10,000.00 for a joint return per
23 tax year. The amount calculated under this subparagraph for each
24 education savings account shall not be less than zero.

25 (ii) The amount under section 30f.

26 (u) Add, to the extent not included in adjusted gross income,
27 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

1 property, to the extent the personal property is utilized within
2 the agreement area.

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

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

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

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

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

16 (J) All gaming winnings.

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

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

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

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

26 (w) For tax years beginning after December 31, 2011, eliminate
27 all of the following:

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

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

5 (X) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2011, A
6 TAXPAYER WHO SELLS HIS OR HER PRINCIPAL RESIDENCE DURING THE TAX
7 YEAR MAY DEDUCT THE AMOUNT PAID BY THE TAXPAYER IN CLOSING COSTS
8 AND REAL ESTATE COMMISSIONS IN RELATION TO THAT SALE. FOR PURPOSES
9 OF THIS SUBDIVISION, "PRINCIPAL RESIDENCE" MEANS THAT TERM AS
10 DEFINED IN SECTION 7DD OF THE GENERAL PROPERTY TAX ACT, 1893 PA
11 206, MCL 211.7DD, AND EXEMPT FROM TAXATION UNDER SECTION 7CC OF THE
12 GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.7CC.

13 (2) Except as otherwise provided in subsection (7), a personal
14 exemption of \$3,700.00 multiplied by the number of personal or
15 dependency exemptions allowable on the taxpayer's federal income
16 tax return pursuant to the internal revenue code shall be
17 subtracted in the calculation that determines taxable income.

18 (3) Except as otherwise provided in subsection (7), a single
19 additional exemption determined as follows shall be subtracted in
20 the calculation that determines taxable income in each of the
21 following circumstances:

22 (a) \$1,800.00 for each taxpayer and every dependent of the
23 taxpayer who is a deaf person as defined in section 2 of the deaf
24 persons' interpreters act, 1982 PA 204, MCL 393.502; a paraplegic,
25 a quadriplegic, or a hemiplegic; a person who is blind as defined
26 in section 504; or a person who is totally and permanently disabled
27 as defined in section 522. When a dependent of a taxpayer files an

1 annual return under this part, the taxpayer or dependent of the
2 taxpayer, but not both, may claim the additional exemption allowed
3 under this subdivision. As used in this subdivision, "dependent"
4 means that term as defined in section 30e.

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

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

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

16 (iii) "Veteran" means a person who served in the active
17 military, naval, marine, coast guard, or air service and who was
18 discharged or released from his or her service with an honorable or
19 general discharge.

20 (4) An individual with respect to whom a deduction under
21 section 151 of the internal revenue code is allowable to another
22 federal taxpayer during the tax year is not considered to have an
23 allowable federal exemption for purposes of subsection (2), but may
24 subtract \$1,500.00 in the calculation that determines taxable
25 income for a tax year.

26 (5) A nonresident or a part-year resident is allowed that
27 proportion of an exemption or deduction allowed under subsection

1 (2), (3), or (4) that the taxpayer's portion of adjusted gross
2 income from Michigan sources bears to the taxpayer's total adjusted
3 gross income.

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

8 (7) For each tax year beginning on and after January 1, 2013,
9 the personal exemption allowed under subsection (2) shall be
10 adjusted by multiplying the exemption for the tax year beginning in
11 2012 by a fraction, the numerator of which is the United States
12 consumer price index for the state fiscal year ending in the tax
13 year prior to the tax year for which the adjustment is being made
14 and the denominator of which is the United States consumer price
15 index for the 2010-2011 state fiscal year. The resultant product
16 shall be rounded to the nearest \$100.00 increment. As used in this
17 section, "United States consumer price index" means the United
18 States consumer price index for all urban consumers as defined and
19 reported by the United States department of labor, bureau of labor
20 statistics. For each tax year, the exemptions allowed under
21 subsection (3) shall be adjusted by multiplying the exemption
22 amount under subsection (3) for the tax year by a fraction, the
23 numerator of which is the United States consumer price index for
24 the state fiscal year ending the tax year prior to the tax year for
25 which the adjustment is being made and the denominator of which is
26 the United States consumer price index for the 1998-1999 state
27 fiscal year. The resultant product shall be rounded to the nearest

1 \$100.00 increment. For a taxpayer whose total household resources
2 are \$75,000.00 or more for a single return or \$150,000.00 or more
3 for a joint return, the personal exemption allowed under subsection
4 (2) shall be adjusted by multiplying the exemption for the tax year
5 for a single return by a fraction, the numerator of which is
6 \$100,000.00 minus the taxpayer's total household resources, and the
7 denominator of which is \$25,000.00, and for a joint return by a
8 fraction, the numerator of which is \$200,000.00 minus the
9 taxpayer's total household resources, and the denominator of which
10 is \$50,000.00. The personal exemption allowed under subsection (2)
11 shall not be allowed for a single taxpayer whose total household
12 resources exceed \$100,000.00 or for joint filers whose total
13 household resources exceed \$200,000.00.

14 (8) As used in subsection (1)(f), "retirement or pension
15 benefits" means distributions from all of the following:

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

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

21 (ii) Individual retirement accounts that qualify under section
22 408 of the internal revenue code if the distributions are not made
23 until the participant has reached 59-1/2 years of age, except in
24 the case of death, disability, or distributions described by
25 section 72(t)(2)(A)(iv) of the internal revenue code.

26 (iii) Employee annuities or tax-sheltered annuities purchased
27 under section 403(b) of the internal revenue code by organizations

1 exempt under section 501(c)(3) of the internal revenue code, or by
2 public school systems.

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

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

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

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

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

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

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

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

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

27 (B) Distributions from plans under section 401(k) of the

1 internal revenue code other than plans described in subdivision
2 (a) (iv) .

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

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

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

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

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

15 (b) For a person born in 1946 through 1952, the sum of the
16 deductions under subsection (1)(f) (i) , (ii) , and (iv) is limited to
17 \$20,000.00 for a single return and \$40,000.00 for a joint return.
18 After that person reaches the age of 67, the deductions under
19 subsection (1)(f) (i) , (ii) , and (iv) do not apply and that person is
20 eligible for a deduction of \$20,000.00 for a single return and
21 \$40,000.00 for a joint return, which deduction is available against
22 all types of income and is not restricted to income from retirement
23 or pension benefits. However if that person's total household
24 resources exceed \$75,000.00 for a single return or \$150,000.00 for
25 a joint return, that person is not eligible for a deduction of
26 \$20,000.00 for a single return and \$40,000.00 for a joint return. A
27 person that takes the deduction under subsection (1)(e) is not

1 eligible for the unrestricted deduction of \$20,000.00 for a single
2 return and \$40,000.00 for a joint return under this subdivision.

3 (c) For a person born after 1952, the deduction under
4 subsection (1)(f)(i), (ii), or (iv) does not apply. When that person
5 reaches the age of 67, that person is eligible for a deduction of
6 \$20,000.00 for a single return and \$40,000.00 for a joint return,
7 which deduction is available against all types of income and is not
8 restricted to income from retirement or pension benefits. If a
9 person takes the deduction of \$20,000.00 for a single return and
10 \$40,000.00 for a joint return, that person shall not take the
11 deduction under subsection (1)(f)(iii) and shall not take the
12 personal exemption under subsection (2). That person may elect not
13 to take the deduction of \$20,000.00 for a single return and
14 \$40,000.00 for a joint return and elect to take the deduction under
15 subsection (1)(f)(iii) and the personal exemption under subsection
16 (2) if that election would reduce that person's tax liability.
17 However, if that person's total household resources exceed
18 \$75,000.00 for a single return or \$150,000.00 for a joint return,
19 that person is not eligible for a deduction of \$20,000.00 for a
20 single return and \$40,000.00 for a joint return. A person that
21 takes the deduction under subsection (1)(e) is not eligible for the
22 unrestricted deduction of \$20,000.00 for a single return and
23 \$40,000.00 for a joint return under this subdivision.

24 (d) For a joint return, the limitations and restrictions in
25 this subsection shall be applied based on the age of the older
26 spouse filing the joint return.

27 (10) As used in this section:

1 (a) "Oil and gas" means oil and gas that is subject to
2 severance tax under 1929 PA 48, MCL 205.301 to 205.317.

3 (b) "Total household resources" means that term as defined in
4 chapter 9.

5 Enacting section 1. This amendatory act takes effect January
6 1, 2012.