

## INCOME TAX TREATMENT FOR RETIREMENT INCOME OF SURVIVING SPOUSE

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**House Bill 5034 (H-2) as reported from committee**  
**Sponsor: Rep. Aaron Miller**  
**Committee: Tax Policy**  
**Complete to 1-25-18**

Analysis available at  
<http://www.legislature.mi.gov>

**BRIEF SUMMARY:** House Bill 5034 would amend the Income Tax Act to provide that the tax treatment of retirement income for a married couple filing jointly could be extended to the surviving spouse after the death of the older spouse.

**FISCAL IMPACT:** Although the number of taxpayers who will qualify for the preferential tax treatment and the amount of income affected cannot be known in advance, the impact upon income tax revenue will likely be less than \$5.0 million per year, and will get smaller over time as the cohort that is able to qualify shrinks. It's anticipated that the majority of the revenue loss will be borne by the general fund.

### ***THE APPARENT PROBLEM:***

Michigan enacted changes to the state's individual income tax in 2011. As part of the changes, the tax treatment of retirement income was modified, and the treatment become subject to a tiered system based on the age of the older spouse for a couple filing jointly.<sup>1</sup> The tax benefits are larger for older taxpayers. This tiered system could lead to difficulties for a married couple if, for instance, the older spouse died. In that case, the tax treatment previously enjoyed by the married couple would stop, and the surviving spouse would be treated according to his or her date of birth. This could lead to a potentially difficult tax increase for the surviving spouse, as seniors often rely on fixed incomes and have carefully planned for their retirement with tax benefits in mind. Legislation has been introduced to allow a surviving spouse to continue receiving the tax treatment that was received before the older spouse died.

### ***THE CONTENT OF THE BILL:***

Currently under the act, when taxpayers file a joint return, the limitations and restrictions on retirement income deductions are based on the age of the older spouse.

House Bill 5034 would change this provision, and stipulate that the limitations and restrictions on the joint return are based on the older spouse's date of birth, not age.

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<sup>1</sup> For a chart describing income tax treatment for retirement benefits, see "Income Tax For Retirement Benefits, Effective for Tax Year 2016" from the Michigan Department of Treasury:  
[http://www.michigan.gov/documents/taxes/2016RetirementAndPensionBenefitsChart\\_544015\\_7.pdf](http://www.michigan.gov/documents/taxes/2016RetirementAndPensionBenefitsChart_544015_7.pdf)

Then, for tax years beginning after December 31, 2017, for the retirement deductions claimed on a joint return for at least 2 tax years prior to the death of a spouse, the surviving spouse would be entitled to claim in subsequent tax years the deductions that would have applied based on the date of birth of the older spouse. This would only be available if the spouse did not remarry, and the limitations and restrictions would apply to a single return.

A surviving spouse born after 1945 who was at least 67 years old (and had not remarried) could elect to take the standard deduction against all types of income, rather than taking any other deductions allowed for a single filer based on the date of birth of the older spouse.

***BRIEF DISCUSSION:***

The bill is understood to address a group of senior citizens who find themselves in the situation in which an older spouse, who allowed the couple to receive preferential tax treatment of retirement income, has died, and the younger spouse would otherwise lose that status. The bill would allow that preferential treatment to continue for the younger surviving spouse.

Reportedly, the group to which this applies is probably quite small. Concerns were raised that the continuing benefit could be “gamed” by the surviving spouse, if, for instance, the surviving spouse worked again and received the benefit for a larger amount of money, or if, for instance, the couple only filed jointly sporadically before the older spouse’s death. Proponents noted that the bill is intended to apply to a small number of individuals in this clearly difficult situation. Additionally, the House Tax Policy Committee adopted an amendment to require that the couple must have filed jointly for at least 2 years before the death of the spouse.

***POSITIONS:***

A representative of the Michigan Department of Treasury testified in support of the bill. (11-29-17)

Representatives of the following entities indicated support of the bill:

State Employee Retirees Association (11-29-17, 1-24-18)

AARP (11-29-17)

Legislative Analyst: Patrick Morris  
Fiscal Analyst: Jim Stansell

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.