

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5376**

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending sections 30 and 623 (MCL 206.30 and 206.623), section
30 as amended by 2021 PA 120 and section 623 as amended by 2014 PA
13, and by adding sections 254 and 675 and part 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
6 obligations or securities of states other than Michigan, in the
7 same amount that has been excluded from adjusted gross income less

1 related expenses not deducted in computing adjusted gross income
2 because of section 265(a) (1) of the internal revenue code.

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

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

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

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

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

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

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

27 (f) Deduct the following to the extent included in adjusted
28 gross income subject to the limitations and restrictions set forth
29 in subsection (9):

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

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

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

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

28 (v) The amount determined to be the section 22 amount eligible
29 for the elderly and the permanently and totally disabled credit

1 provided in section 22 of the internal revenue code.

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

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

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

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

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

13 (ii) The amount of payment made under an advance tuition
14 payment contract as provided in the Michigan education trust act,
15 1986 PA 316, MCL 390.1421 to 390.1442.

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

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

22 (B) The contract applies only for a state institution of
23 higher education as defined in the Michigan education trust act,
24 1986 PA 316, MCL 390.1421 to 390.1442, or a community or junior
25 college in Michigan.

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

29 (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.

28 (m) Add, to the extent deducted in determining adjusted gross
29 income, the net operating loss deduction under section 172 of the

1 internal revenue code.

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

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

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

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

29 (i) The amount of a refund received in the tax year based on

1 taxes paid under this part **and any direct or indirect allocated**
2 **share of a refund received by a flow-through entity under part 4.**

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

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

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

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

29 (i) "Holocaust victim" means a person, or the heir or

1 beneficiary of that person, who was persecuted by Nazi Germany or
2 any Axis regime during any period from 1933 to 1945.

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

9 (t) Deduct all of the following:

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

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

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

27 (u) Add, to the extent not included in adjusted gross income,
28 the amount of money withdrawn by the taxpayer in the tax year from
29 education savings accounts, not to exceed the total amount deducted

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

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

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

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

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

23 (B) All interest and passive dividends.

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

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

29 (E) Capital gains from the sale or exchange of real property

1 located within the agreement area.

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

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

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

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

13 (J) All gaming winnings.

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

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

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

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

23 ~~(w) For tax years beginning after December 31, 2011, eliminate~~
24 **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) For tax years that begin after December 31, 2015, deduct~~

1 **Deduct** all of the following:

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

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

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

18 (y) ~~For tax years that begin after December 31, 2015, add,~~
19 **Add,** to the extent not included in adjusted gross income, the
20 amount of money withdrawn by the taxpayer in the tax year from an
21 ABLE savings account, not to exceed the total amount deducted under
22 subdivision (x) in the tax year and all previous tax years, if the
23 withdrawal was not a qualified withdrawal as provided in the
24 Michigan achieving a better life experience (ABLE) program act,
25 2015 PA 160, MCL 206.981 to 206.997. This subdivision does not
26 apply to withdrawals that are less than the sum of all
27 contributions made to an ABLE savings account in all previous tax
28 years for which no deduction was claimed under subdivision (x),
29 less any contributions for which no deduction was claimed under

1 subdivision (x) that were withdrawn in all previous tax years.

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

6 (aa) For the 2016, 2017, 2018, and 2019 tax years and for each
7 tax year that begins on and after January 1, 2025, a taxpayer who
8 is a disabled veteran may deduct, to the extent included in
9 adjusted gross income, income reported on a federal income tax form
10 1099-C that is attributable to the cancellation or discharge of a
11 student loan by the United States Department of Education pursuant
12 to the total and permanent disability discharge program, 34 CFR
13 685.213. As used in this subdivision, "disabled veteran" means an
14 individual who meets either of the following criteria:

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

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

21 (2) Except as otherwise provided in subsection (7) and section
22 30a, a personal exemption of \$3,700.00 multiplied by the number of
23 personal and dependency exemptions shall be subtracted in the
24 calculation that determines taxable income. The number of personal
25 and dependency exemptions allowed shall be determined as follows:

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

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

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

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

10 (3) Except as otherwise provided in subsection (7), a single
11 additional exemption determined as follows shall be subtracted in
12 the calculation that determines taxable income in each of the
13 following circumstances:

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

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

29 (i) "Qualified disabled veteran" means a veteran with a

1 service-connected disability.

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

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

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

14 (5) A nonresident or a part-year resident is allowed that
15 proportion of an exemption or deduction allowed under subsection
16 (2), (3), or (4) that the taxpayer's portion of adjusted gross
17 income from Michigan sources bears to the taxpayer's total adjusted
18 gross income.

19 (6) In calculating taxable income, a taxpayer shall not
20 subtract from adjusted gross income the amount of prizes won by the
21 taxpayer under the McCauley-Traxler-Law-Bowman-McNeely lottery act,
22 1972 PA 239, MCL 432.1 to 432.47.

23 (7) For each tax year beginning on and after January 1, 2013,
24 the personal exemption allowed under subsection (2) shall be
25 adjusted by multiplying the exemption for the tax year beginning in
26 2012 by a fraction, the numerator of which is the United States
27 Consumer Price Index for the state fiscal year ending in the tax
28 year prior to the tax year for which the adjustment is being made
29 and the denominator of which is the United States Consumer Price

1 Index for the 2010-2011 state fiscal year. For the 2022 tax year
2 and each tax year after 2022, the adjusted amount determined under
3 this subsection shall be increased by an additional \$600.00. The
4 resultant product shall be rounded to the nearest \$100.00
5 increment. For each tax year, the exemptions allowed under
6 subsection (3) shall be adjusted by multiplying the exemption
7 amount under subsection (3) for the tax year by a fraction, the
8 numerator of which is the United States Consumer Price Index for
9 the state fiscal year ending the tax year prior to the tax year for
10 which the adjustment is being made and the denominator of which is
11 the United States Consumer Price Index for the 1998-1999 state
12 fiscal year. The resultant product shall be rounded to the nearest
13 \$100.00 increment.

14 (8) As used in this section, "retirement or pension benefits"
15 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
28 exempt under section 501(c)(3) of the internal revenue code, or by
29 public school systems.

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

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

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

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

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

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

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

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

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

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

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

1 (a) *(iii)* .

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

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

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

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

11 (b) Except as otherwise provided in subdivision (c), for a
12 person born in 1946 through 1952, the sum of the deductions under
13 subsection (1) (f) *(i)* , *(ii)* , and *(iv)* is limited to \$20,000.00 for a
14 single return and \$40,000.00 for a joint return. After that person
15 reaches the age of 67, the deductions under subsection (1) (f) *(i)* ,
16 *(ii)* , and *(iv)* do not apply and that person is eligible for a
17 deduction of \$20,000.00 for a single return and \$40,000.00 for a
18 joint return, which deduction is available against all types of
19 income and is not restricted to income from retirement or pension
20 benefits. A person who takes the deduction under subsection (1) (e)
21 is not eligible for the unrestricted deduction of \$20,000.00 for a
22 single return and \$40,000.00 for a joint return under this
23 subdivision.

24 (c) Beginning January 1, 2013 for a person born in 1946
25 through 1952 and beginning January 1, 2018 for a person born after
26 1945 who has retired as of January 1, 2013, if that person receives
27 retirement or pension benefits from employment with a governmental
28 agency that was not covered by the federal social security act,
29 chapter 531, 49 Stat 620, the sum of the deductions under

1 subsection (1) (f) (i), (ii), and (iv) is limited to \$35,000.00 for a
2 single return and, except as otherwise provided under this
3 subdivision, \$55,000.00 for a joint return. If both spouses filing
4 a joint return receive retirement or pension benefits from
5 employment with a governmental agency that was not covered by the
6 federal social security act, chapter 531, 49 Stat 620, the sum of
7 the deductions under subsection (1) (f) (i), (ii), and (iv) is limited
8 to \$70,000.00 for a joint return. After that person reaches the age
9 of 67, the deductions under subsection (1) (f) (i), (ii), and (iv) do
10 not apply and that person is eligible for a deduction of \$35,000.00
11 for a single return and \$55,000.00 for a joint return, or
12 \$70,000.00 for a joint return if applicable, which deduction is
13 available against all types of income and is not restricted to
14 income from retirement or pension benefits. A person who takes the
15 deduction under subsection (1) (e) is not eligible for the
16 unrestricted deduction of \$35,000.00 for a single return and
17 \$55,000.00 for a joint return, or \$70,000.00 for a joint return if
18 applicable, under this subdivision.

19 (d) Except as otherwise provided under subdivision (c) for a
20 person who was retired as of January 1, 2013, for a person born
21 after 1952 who has reached the age of 62 through 66 years of age
22 and who receives retirement or pension benefits from employment
23 with a governmental agency that was not covered by the federal
24 social security act, chapter 531, 49 Stat 620, the sum of the
25 deductions under subsection (1) (f) (i), (ii), and (iv) is limited to
26 \$15,000.00 for a single return and, except as otherwise provided
27 under this subdivision, \$15,000.00 for a joint return. If both
28 spouses filing a joint return receive retirement or pension
29 benefits from employment with a governmental agency that was not

1 covered by the federal social security act, chapter 531, 49 Stat
2 620, the sum of the deductions under subsection (1)(f)(i), (ii), and
3 (iv) is limited to \$30,000.00 for a joint return.

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

22 (f) For a joint return, the limitations and restrictions in
23 this subsection shall be applied based on the date of birth of the
24 older spouse filing the joint return. If a deduction under
25 subsection (1)(f) was claimed on a joint return for a tax year in
26 which a spouse died and the surviving spouse has not remarried
27 since the death of that spouse, the surviving spouse is entitled to
28 claim the deduction under subsection (1)(f) in subsequent tax years
29 subject to the same restrictions and limitations, for a single

1 return, that would have applied based on the date of birth of the
2 older of the 2 spouses. For tax years beginning after December 31,
3 2019, a surviving spouse born after 1945 who has reached the age of
4 67 and has not remarried since the death of that spouse may elect
5 to take the deduction that is available against all types of income
6 subject to the same limitations and restrictions as provided under
7 this subsection based on the surviving spouse's date of birth
8 instead of taking the deduction allowed under subsection (1)(f),
9 for a single return, based on the date of birth of the older
10 spouse.

11 (10) As used in this section:

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

14 (b) "Senior citizen" means that term as defined in section
15 514.

16 (c) "United States Consumer Price Index" means the United
17 States Consumer Price Index for all urban consumers as defined and
18 reported by the United States Department of Labor, Bureau of Labor
19 Statistics.

20 **Sec. 254. (1) Except as otherwise provided under this section,**
21 **for tax years beginning on and after January 1, 2021, a taxpayer**
22 **who is either a member of a flow-through entity that elects to file**
23 **a return and pay the tax imposed under part 4 or a direct or**
24 **indirect member of another flow-through entity that elects to file**
25 **a return and pay the tax imposed under part 4 may claim a credit**
26 **against the tax imposed under this part in an amount equal to the**
27 **member's allocated share of the tax as reported to the member by**
28 **the flow-through entity pursuant to section 839(1)(d) for the tax**
29 **year ending on or within the taxpayer's same tax year. A**

1 nonresident estate or trust may claim a credit against the tax
2 imposed under this part in an amount equal to the nonresident
3 estate's or trust's allocated share of the tax as reported to the
4 nonresident estate or trust pursuant to section 839(1)(d) for the
5 tax year ending on or within the taxpayer's same tax year
6 multiplied by a percentage equal to a fraction, the numerator of
7 which is 100 minus the rate imposed under section 51, and the
8 denominator of which is 100.

9 (2) For a taxpayer that is an estate or trust, the amount of
10 the credit allowed under this section shall be determined by
11 multiplying the amount calculated under subsection (1) by a
12 percentage equal to a fraction, the numerator of which is the flow-
13 through entity business income tax base that is retained by the
14 estate or trust and the denominator of which is the total flow-
15 through entity business income tax base that is included in
16 distributable net income.

17 (3) For a taxpayer who is a beneficiary of an estate or trust
18 that is either a member of a flow-through entity that elects to
19 file a return and pay the tax imposed under part 4 or a direct or
20 indirect member of another flow-through entity that elects to file
21 a return and pay the tax imposed under part 4, the amount of the
22 credit allowed under this section is equal to the allocable share
23 of the tax imposed under part 4 for the year ending on or within
24 the taxpayer's same tax year as reported to the beneficiary in
25 accordance with section 839(2).

26 (4) If the credit allowed under this section exceeds the tax
27 liability of the taxpayer for the tax year, that portion of the
28 credit that exceeds the tax liability shall be refunded.

29 (5) For tax years ending in 2021 only, if the taxpayer claims

1 a credit under this section and the annual return filed under this
 2 part on which the credit under this section is claimed results in a
 3 refund, any portion of that refund that is attributable to the
 4 credit claimed under this section is not subject to added interest
 5 under section 30(3), (4), and (5) of 1941 PA 122, MCL 205.30.

6 Sec. 623. (1) Except as otherwise provided in this part, there
 7 is levied and imposed a corporate income tax on every taxpayer with
 8 business activity within this state or ownership interest or
 9 beneficial interest in a flow-through entity that has business
 10 activity in this state unless prohibited by 15 USC 381 to 384. The
 11 corporate income tax is imposed on the corporate income tax base,
 12 after allocation or apportionment to this state, at the rate of
 13 6.0%.

14 (2) The corporate income tax base means a taxpayer's business
 15 income subject to the following adjustments, before allocation or
 16 apportionment, and the adjustment in subsection (4) after
 17 allocation or apportionment:

18 (a) Add interest income and dividends derived from obligations
 19 or securities of states other than this state, in the same amount
 20 that was excluded from federal taxable income, less the related
 21 portion of expenses not deducted in computing federal taxable
 22 income because of sections 265 and 291 of the internal revenue
 23 code.

24 (b) Add all taxes on or measured by net income including the
 25 tax imposed under this part to the extent that the taxes were
 26 deducted in arriving at federal taxable income **including any direct**
 27 **or indirect allocated share of taxes paid by a flow-through entity**
 28 **under part 4.**

29 (c) Add any carryback or carryover of a net operating loss to

1 the extent deducted in arriving at federal taxable income.

2 (d) To the extent included in federal taxable income, deduct
3 dividends and royalties received from persons other than United
4 States persons and foreign operating entities, including, but not
5 limited to, amounts determined under section 78 of the internal
6 revenue code or sections 951 to ~~964~~965 of the internal revenue
7 code.

8 (e) Except as otherwise provided under this subdivision, to
9 the extent deducted in arriving at federal taxable income, add any
10 royalty, interest, or other expense paid to a person related to the
11 taxpayer by ownership or control for the use of an intangible asset
12 if the person is not included in the taxpayer's unitary business
13 group. The addition of any royalty, interest, or other expense
14 described under this subdivision is not required to be added if the
15 taxpayer can demonstrate that the transaction has a nontax business
16 purpose, is conducted with arm's-length pricing and rates and terms
17 as applied in accordance with sections 482 and 1274(d) of the
18 internal revenue code, and 1 of the following is true:

19 (i) The transaction is a pass through of another transaction
20 between a third party and the related person with comparable rates
21 and terms.

22 (ii) An addition would result in double taxation. For purposes
23 of this subparagraph, double taxation exists if the transaction is
24 subject to tax in another jurisdiction.

25 (iii) An addition would be unreasonable as determined by the
26 state treasurer.

27 (iv) The related person recipient of the transaction is
28 organized under the laws of a foreign nation which has in force a
29 comprehensive income tax treaty with the United States.

1 (f) To the extent included in federal taxable income, deduct
2 interest income derived from United States obligations.

3 (g) ~~For tax years beginning after December 31, 2011, eliminate~~
4 **Eliminate** all of the following:

5 (i) Income from producing oil and gas to the extent included in
6 federal taxable income.

7 (ii) Expenses of producing oil and gas to the extent deducted
8 in arriving at federal taxable income.

9 (h) ~~For tax years beginning after December 31, 2012, for~~ **For** a
10 qualified taxpayer, eliminate all of the following:

11 (i) Income derived from a mineral to the extent included in
12 federal taxable income.

13 (ii) Expenses related to the income deductible under
14 subparagraph (i) to the extent deducted in arriving at federal
15 taxable income.

16 (3) For purposes of subsection (2), the business income of a
17 unitary business group is the sum of the business income of each
18 person included in the unitary business group less any items of
19 income and related deductions arising from transactions including
20 dividends between persons included in the unitary business group.

21 (4) Deduct any available business loss incurred after December
22 31, 2011. As used in this subsection, "business loss" means a
23 negative business income taxable amount after allocation or
24 apportionment. For purposes of this subsection, a taxpayer that
25 acquires the assets of another corporation in a transaction
26 described under section 381(a)(1) or (2) of the internal revenue
27 code may deduct any business loss attributable to that distributor
28 or transferor corporation. The business loss shall be carried
29 forward to the year immediately succeeding the loss year as an

1 offset to the allocated or apportioned corporate income tax base,
 2 then successively to the next 9 taxable years following the loss
 3 year or until the loss is used up, whichever occurs first.

4 (5) As used in this section, "oil and gas" means oil and gas
 5 that is subject to severance tax under 1929 PA 48, MCL 205.301 to
 6 205.317.

7 **Sec. 675. (1) Except as otherwise provided under this section,**
 8 **for tax years beginning on and after January 1, 2021, a taxpayer**
 9 **who is either a member of a flow-through entity that elects to file**
 10 **a return and pay the tax imposed under part 4 or a direct or**
 11 **indirect member of another flow-through entity that elects to file**
 12 **a return and pay the tax imposed under part 4 may claim a credit**
 13 **against the tax imposed under this part in an amount equal to the**
 14 **member's allocated share of the tax as reported to the member by**
 15 **the flow-through entity pursuant to section 839(1)(d) for the tax**
 16 **year ending on or within the taxpayer's same tax year.**

17 (2) If the credit allowed under this section exceeds the tax
 18 liability of the taxpayer for the tax year, that portion of the
 19 credit that exceeds the tax liability shall be refunded.

20 (3) For tax years ending in 2021 only, if the taxpayer claims
 21 a credit under this section and the annual return filed under this
 22 part on which the credit under this section is claimed results in a
 23 refund, any portion of that refund that is attributable to the
 24 credit claimed under this section is not subject to added interest
 25 under section 30(3) of 1941 PA 122, MCL 205.30.

26 **PART 4**

27 **CHAPTER 20**

28 **Sec. 801. A term used in this part and not defined differently**
 29 **shall have the same meaning as when used in comparable context in**

1 the laws of the United States relating to federal income taxes in
2 effect for the tax year as provided in section 805(5) unless a
3 different meaning is clearly required. A reference in this part to
4 the internal revenue code includes other provisions of the laws of
5 the United States relating to federal income taxes.

6 Sec. 803. (1) "Business activity" means a transfer of legal or
7 equitable title to or rental of property, whether real, personal,
8 or mixed, tangible or intangible, or the performance of services,
9 or a combination thereof, made or engaged in, or caused to be made
10 or engaged in, whether in intrastate, interstate, or foreign
11 commerce, with the object of gain, benefit, or advantage, whether
12 direct or indirect, to the taxpayer or to others, but does not
13 include the services rendered by an employee to his or her
14 employer, services as a director of a corporation or S corporation,
15 or services as a manager of a limited liability company that has
16 elected to file as a C corporation or S corporation for federal
17 income tax purposes.

18 (2) "Business income" means federal taxable income and
19 includes payments and items of income and expense that are
20 attributable to business activity of the flow-through entity and
21 separately reported to its members.

22 (3) "Corporation" means a person that is required or has
23 elected to file as a C corporation as defined under section
24 1361(a)(2) and section 7701(a)(3) of the internal revenue code.

25 (4) "Department" means the department of treasury.

26 (5) "Domicile" means the principal place from which the trade
27 or business of the flow-through entity is directed or managed.

28 (6) "Employee" means an employee as defined in section 3401(c)
29 of the internal revenue code. A person from whom an employer is

1 required to withhold for federal income tax purposes is prima facie
2 considered an employee.

3 (7) "Employer" means an employer as defined in section 3401(d)
4 of the internal revenue code. A person required to withhold for
5 federal income tax purposes is prima facie considered an employer.

6 Sec. 805. (1) "Federal taxable income" means taxable income as
7 defined in section 63 of the internal revenue code without the
8 deductions described under section 703(a)(2) of the internal
9 revenue code. For the purposes of this part in computing federal
10 taxable income, an S corporation shall be treated as a corporation
11 under section 1361(a)(2) of the internal revenue code and a
12 partnership shall be treated as an association taxable as a
13 corporation pursuant to an election under 26 CFR 301.7701-3(a).

14 (2) "Financial institution" means that term as defined in
15 section 651.

16 (3) "Flow-through entity" means an entity that for the
17 applicable tax year is treated as an S corporation or a partnership
18 under the internal revenue code for federal income tax purposes.
19 Flow-through entity does not include a publicly traded partnership,
20 any entity disregarded under section 845, or any person subject to
21 the tax imposed under chapter 13.

22 (4) "Insurance company" means that term as defined in section
23 607.

24 (5) "Internal revenue code" means the United States internal
25 revenue code of 1986 in effect on January 1, 2021 or, at the option
26 of the taxpayer, in effect for the tax year.

27 (6) "Member", when used in reference to a flow-through entity,
28 means a shareholder of an S corporation or a partner or member in a
29 partnership.

1 Sec. 807. (1) "Partnership" means an entity that is required
2 to or has elected to file as a partnership for federal income tax
3 purposes. Partnership includes a limited liability company that is
4 treated as a partnership for federal income tax purposes.

5 (2) "Person" means an individual, bank, financial institution,
6 insurance company, association, corporation, flow-through entity,
7 receiver, estate, trust, or any other group or combination of
8 groups acting as a unit.

9 (3) "Publicly traded partnership" means that term as defined
10 under section 7704 of the internal revenue code.

11 (4) "S corporation" means a United States person electing
12 taxation under sections 1361 to 1379 of the internal revenue code.

13 (5) "Sale" or "sales" means that term as defined in section
14 20.

15 (6) "State" means any state of the United States, the District
16 of Columbia, the Commonwealth of Puerto Rico, any territory or
17 possession of the United States, and any foreign country, or a
18 political subdivision of any of the foregoing.

19 Sec. 809. (1) "Tax" means the tax imposed under this part,
20 including interest and penalties under this part, unless the term
21 is given a more limited meaning in the context of this part or a
22 provision of this part.

23 (2) "Tax year" means the calendar year, or the fiscal year
24 ending during the calendar year, upon the basis of which the tax
25 base of a taxpayer is computed under this part. If a return is made
26 for a fractional part of a year, tax year means the period for
27 which the return is made. Except for the first return required by
28 this part, a taxpayer's tax year is for the same period as is
29 covered by its federal income tax return. A taxpayer that has a 52-

1 or 53-week tax year beginning not more than 7 days before the end
2 of any month is considered to have a tax year beginning on the
3 first day of the subsequent month.

4 (3) "Taxpayer" means a flow-through entity that elects
5 pursuant to section 813 to be subject to the tax under this part.

6 (4) "United States person" means that term as defined in
7 section 7701(a)(30) of the internal revenue code.

8 CHAPTER 21

9 Sec. 811. (1) Except as otherwise provided in this part, a
10 taxpayer has substantial nexus in this state and is subject to the
11 tax imposed under this part if the taxpayer elects to pay the tax
12 pursuant to section 813 and if the taxpayer has a physical presence
13 in this state for a period of more than 1 day during the tax year,
14 actively solicits sales in this state and has gross receipts
15 sourced to this state, or is a member or has an ownership interest
16 or a beneficial interest in a flow-through entity, directly, or
17 indirectly through 1 or more other flow-through entities, that has
18 substantial nexus in this state.

19 (2) As used in this section:

20 (a) "Actively solicits" means either of the following:

21 (i) Speech, conduct, or activity that is purposefully directed
22 at or intended to reach persons within this state and that
23 explicitly or implicitly invites an order for a purchase or sale.

24 (ii) Speech, conduct, or activity that is purposefully directed
25 at or intended to reach persons within this state that neither
26 explicitly nor implicitly invites an order for a purchase or sale,
27 but is entirely ancillary to requests for an order for a purchase
28 or sale.

29 (b) "Gross receipts" means that term as defined under section

1 607.

2 (c) "Physical presence" means any activity conducted by the
3 taxpayer or on behalf of the taxpayer by the taxpayer's employee,
4 agent, or independent contractor acting in a representative
5 capacity. Physical presence does not include the activities of
6 professionals providing services in a professional capacity or
7 other service providers if the activity is not significantly
8 associated with the taxpayer's ability to establish and maintain a
9 market in this state.

10 Sec. 813. For tax years beginning on and after January 1,
11 2021, a flow-through entity may, in a form and manner as prescribed
12 by the department, elect to file a return and pay the tax imposed
13 by this part. Except as otherwise provided under this section, an
14 election made under this section is an irrevocable election that
15 shall continue for the next 2 subsequent tax years and the taxpayer
16 shall continue to file a return and pay the tax imposed under this
17 part as provided in section 833. A flow-through entity that elects
18 to pay the tax imposed under this part shall file its election with
19 the department on or before the fifteenth day of the third month of
20 that tax year. However, an election made for any tax year beginning
21 in 2021 must be made before the fifteenth day of the fourth
22 calendar month after the effective date of the amendatory act that
23 added this section. A separate election must be made after the
24 expiration of the irrevocable period described in this section to
25 continue to pay the tax imposed by this part. If, in accordance
26 with section 847, the tax is not levied and imposed during any tax
27 year, for any subsequent tax year that the tax is levied and
28 imposed under this part, regardless of whether the taxpayer had
29 previously made an election to pay under this section, the taxpayer

1 is required to make a separate election to pay under this section.

2 Sec. 815. (1) Subject to section 847, beginning January 1,
3 2021 and each tax year after 2021, there is levied and imposed a
4 flow-through entity tax on every taxpayer with business activity in
5 this state unless prohibited by 15 USC 381 to 384. Except as
6 otherwise provided under subsection (5), the flow-through entity
7 tax is imposed on the positive business income tax base, after
8 allocation or apportionment to this state, at the same rate levied
9 and imposed under section 51 for that same tax year. A negative
10 business income tax base of a flow-through entity, after allocation
11 or apportionment to this state, is includible in the business
12 income tax base of each member of the flow-through entity and is
13 not available as an offset to the allocated or apportioned business
14 income tax base of the flow-through entity in any other tax year
15 for which an election is made under section 813.

16 (2) The business income tax base means a taxpayer's business
17 income subject to the following adjustments, before allocation or
18 apportionment, and the adjustment in subsection (4) after
19 allocation or apportionment:

20 (a) Add interest income and dividends derived from obligations
21 or securities of states other than this state, in the same amount
22 that was excluded from federal taxable income, less the related
23 portion of expenses not deducted in computing federal taxable
24 income because of sections 265 and 291 of the internal revenue
25 code.

26 (b) Add losses on the sale or exchange of obligations of the
27 United States government, the income of which this state is
28 prohibited from subjecting to a net income tax, to the extent that
29 the loss has been deducted in arriving at federal taxable income.

1 (c) Deduct, to the extent included in federal taxable income,
2 income derived from obligations, or the sale or exchange of
3 obligations, of the United States government that this state is
4 prohibited by law from subjecting to a net income tax, reduced by
5 any interest on indebtedness incurred in carrying the obligations
6 and by any expenses incurred in the production of that income to
7 the extent that the expenses, including amortizable bond premiums,
8 were deducted in arriving at federal taxable income.

9 (d) Add charitable contributions to the extent deducted in
10 arriving at federal taxable income.

11 (e) Add all taxes on or measured by net income including the
12 tax imposed under this part to the extent that the taxes were
13 deducted in arriving at federal taxable income.

14 (f) Deduct guaranteed payments for services rendered by a
15 member who is an individual to the extent that those guaranteed
16 payments were included in federal taxable income.

17 (g) Deduct, to the extent included in federal taxable income,
18 all of the following:

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

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

24 (h) Deduct business income received as a member of another
25 flow-through entity to the extent that the business income
26 increased federal taxable income.

27 (i) Eliminate all of the following:

28 (i) Income from producing oil and gas to the extent included in
29 federal taxable income.

1 (ii) Expenses of producing oil and gas to the extent deducted
2 in arriving at federal taxable income.

3 (iii) Income derived from a mineral to the extent included in
4 federal taxable income of a qualified taxpayer.

5 (iv) Expenses related to the income deductible under
6 subparagraph (iii) to the extent deducted in arriving at federal
7 taxable income.

8 (3) For a taxpayer that has a direct, or indirect through 1 or
9 more other flow-through entities, ownership or beneficial interest
10 in a flow-through entity for which an election was made under
11 section 813 and that reported positive business income in a tax
12 year ending on or within the taxpayer's tax year, the adjustments
13 in subsection (2) shall not include the taxpayer's share of the
14 electing flow-through entities adjustments under subsection (2).

15 (4) For a taxpayer that has a direct, or indirect through 1 or
16 more other flow-through entities, ownership or beneficial interest
17 in a flow-through entity for which an election was not made under
18 section 813, add the taxpayer's share of the non-electing flow-
19 through entity's positive business income as determined under
20 section 817(2).

21 (5) In computing the tax due under this part, the taxpayer
22 shall pay the tax due only on the business income tax base
23 allocable to those members who are individuals, flow-through
24 entities, estates, or trusts and exclude the business income tax
25 base allocable to those members that are corporations, insurance
26 companies, or financial institutions. The department may require
27 the taxpayer to disclose identifying information for all members of
28 the taxpayer and the allocable share of business income for each
29 member.

1 (6) As used in this section:

2 (a) "Mineral" means that term as defined in section 2 of the
3 nonferrous metallic minerals extraction severance tax act, 2012 PA
4 410, MCL 211.782.

5 (b) "Oil and gas" means oil and gas that is subject to
6 severance tax under 1929 PA 48, MCL 205.301 to 205.317.

7 (c) "Qualified taxpayer" means a taxpayer subject to the
8 minerals severance tax levied under the nonferrous metallic
9 minerals extraction severance tax act, 2012 PA 410, MCL 211.781 to
10 211.791.

11 Sec. 817. (1) Except as otherwise provided in this part, the
12 business income tax base established under this part shall be
13 apportioned in accordance with allocation and apportionment
14 provisions in chapter 3.

15 (2) For a taxpayer that has a direct, or indirect through 1 or
16 more other flow-through entities, ownership interest or beneficial
17 interest in a flow-through entity, the taxpayer's business income
18 that is directly attributable to the business activity of the flow-
19 through entity shall be apportioned to this state using an
20 apportionment factor determined under chapter 3 based on the
21 business activity of the flow-through entity.

22 (3) A taxpayer is subject to tax in another state in either of
23 the following circumstances:

24 (a) The taxpayer is subject to, or would be subject to, if the
25 taxpayer was not a flow-through entity, a business privilege tax, a
26 net income tax, a franchise tax measured by net income, a franchise
27 tax for the privilege of doing business, or a corporate stock tax.

28 (b) That state has jurisdiction to subject the taxpayer to 1
29 or more of the taxes listed in subdivision (a) regardless of

1 whether, in fact, that state does or does not subject the taxpayer
2 to that tax.

3 Sec. 819. Any taxpayer allocated income as a member of a flow-
4 through entity by the flow-through entity may not claim a credit
5 against the tax imposed by this part for the taxpayer's allocated
6 share of the tax as reported by the other flow-through entity
7 pursuant to section 839(1)(d) for the tax year ending on or within
8 the taxpayer's same tax year.

9 CHAPTER 23

10 Sec. 831. (1) Except as otherwise provided under this section,
11 a taxpayer that reasonably expects liability for the tax year to
12 exceed \$800.00 shall file an estimated return and pay an estimated
13 tax for each quarter of the taxpayer's tax year in the same manner
14 as provided in section 301.

15 (2) The interest and penalty provided by this part shall not
16 be assessed for the 2022 tax year and each subsequent tax year, if
17 the preceding year's tax liability under this part was \$20,000.00
18 or less and if the taxpayer submitted 4 equal installments the sum
19 of which equals the immediately preceding tax year's tax liability.

20 (3) Each estimated return shall be made on a form prescribed
21 by the department and shall include an estimate of the annual tax
22 liability and other information required by the state treasurer.
23 The form prescribed under this subsection may be combined with any
24 other tax reporting form prescribed by the department.

25 (4) Payments made under this section shall be a credit against
26 the payment required with the annual tax return required in section
27 833.

28 (5) If the department considers it necessary to insure payment
29 of the tax or to provide a more efficient administration of the

1 tax, the department may require filing of the returns and payment
2 of the tax for other than quarterly or annual periods.

3 Sec. 833. (1) An annual or final return for the tax imposed
4 under this part shall be filed with the department in the form and
5 content prescribed by the department by the last day of the third
6 month after the end of the taxpayer's tax year. Any final liability
7 shall be remitted by the annual due date of the taxpayer's annual
8 or final return, excluding any extension of time to file the return
9 as provided under subsections (2) and (3). A taxpayer that elected
10 to file a return for 3 years under section 813 whose tax liability
11 under this part is less than or equal to \$100.00 shall file an
12 information return in accordance with section 711.

13 (2) The department, upon application of the taxpayer and for
14 good cause shown, may extend the date for filing the annual return.
15 Interest at the rate under section 23(2) of 1941 PA 122, MCL
16 205.23, shall be added to the amount of the tax unpaid for the
17 period of the extension. The state treasurer shall require with the
18 application payment of the estimated tax liability unpaid for the
19 tax period covered by the extension.

20 (3) If a taxpayer is granted an extension of time within which
21 to file the federal income tax return for any tax year, the filing
22 of a copy of the request for extension together with a tentative
23 return and payment of an estimated tax with the department by the
24 due date provided in subsection (1) shall automatically extend the
25 due date for the filing of an annual or final return under this
26 part until the last day of the sixth month following the original
27 due date of the return. Interest at the rate under section 23(2) of
28 1941 PA 122, MCL 205.23, shall be added to the amount of the tax
29 unpaid for the period of the extension.

1 Sec. 835. (1) A taxpayer required to file a return under this
2 part may be required to furnish a true and correct copy of any
3 return or portion of any return filed under the provisions of the
4 internal revenue code.

5 (2) A taxpayer shall file an amended return with the
6 department showing any alteration in or modification of a federal
7 income tax return that affects its tax base under this part. The
8 amended return shall be filed within 180 days after the final
9 determination by the internal revenue service.

10 Sec. 837. For tax years ending in 2021 only, if a taxpayer
11 elects to pay the tax under section 813 for the tax year ending in
12 2021 and the annual return filed under this part for that tax year
13 results in a refund, that refund is not subject to added interest
14 under section 30(3) of 1941 PA 122, MCL 205.30.

15 Sec. 839. (1) A taxpayer or a flow-through entity that did not
16 make the election under section 813 shall provide on or before the
17 due date of the return under section 833, upon the amendment of a
18 return filed under section 833 or the adjustment of the tax under
19 this part by the department, to any member to which the provision
20 of information is required by the internal revenue code all of the
21 following for the tax year:

22 (a) Information regarding the allocation and apportionment of
23 the business income described under this part and the allocation
24 and apportionment of income subject to tax under part 1 and part 2.

25 (b) The member's allocable share of the reporting flow-through
26 entity's taxes calculated under section 815(2)(e) on or measured by
27 net income including the tax imposed by this part for the tax year.
28 The member's allocable share of taxes calculated under section
29 815(2)(e) and allocated to the reporting flow-through entity by

1 other flow-through entities with tax years ending on or within the
2 reporting flow-through entity's tax year.

3 (c) The member's allocable share of the reporting flow-through
4 entity's refund calculated under section 815(2)(g). The member's
5 allocable share of refunds calculated under section 815(2)(g) and
6 allocated to the reporting flow-through entity by other flow-
7 through entities with tax years ending on or within the reporting
8 flow-through entity's tax year.

9 (d) Each of the following:

10 (i) The member's share of the tax imposed under this part on
11 the taxpayer for the tax year and paid by the fifteenth day of the
12 third month after the end of the tax year.

13 (ii) The member's share of the tax imposed under this part on
14 the taxpayer for any prior tax year and paid within the tax year
15 excluding any amount reported under subparagraph (i) for the
16 previous tax year.

17 (iii) The member's share of the tax allocated to the reporting
18 flow-through entity under subparagraphs (i) and (ii) by other flow-
19 through entities with tax years ending on or within the reporting
20 flow-through entity's tax year.

21 (e) The member's share of the tax allocated under subdivision
22 (d) must be determined based on the member's share of the income or
23 gain generating the tax imposed under this part and included in the
24 member's share of business income. If a member is allocated
25 different portions of separately reported categories of income and
26 gain, then the allocated share of tax must be based on the tax
27 imposed under this part on each separate category of income or
28 gain.

29 (2) An estate or trust that is either a member of a flow-

1 through entity that elects to file a return and pay the tax imposed
2 under this part or a direct or indirect member of another flow-
3 through entity that elects to file a return and pay the tax imposed
4 under this part shall on or before the due date of the return
5 required under part 1 report to its beneficiaries their allocable
6 share of the tax imposed under this part and reported to the estate
7 or trust under section 839(1)(d) in the same tax year. The
8 allocable share is determined by multiplying the total amount of
9 tax imposed under this part and reported to the estate or trust
10 under section 839(1)(d) in the tax year by a percentage equal to a
11 fraction, the numerator of which is the flow-through entity
12 business income tax base that is distributed to the beneficiaries
13 and the denominator of which is the total flow-through entity
14 business income tax base that is included in distributable net
15 income.

16 Sec. 841. (1) The tax imposed by this part shall be
17 administered by the department of treasury pursuant to 1941 PA 122,
18 MCL 205.1 to 205.31, and this part. If a conflict exists between
19 1941 PA 122, MCL 205.1 to 205.31, and this part, the provisions of
20 this part apply.

21 (2) The department may promulgate rules to implement this part
22 pursuant to the administrative procedures act of 1969, 1969 PA 306,
23 MCL 24.201 to 24.328.

24 (3) The department shall prescribe forms for use by taxpayers
25 and may promulgate rules in conformity with this part for the
26 maintenance by taxpayers of records, books, and accounts, and for
27 the computation of the tax, the manner and time of changing or
28 electing accounting methods and of exercising the various options
29 contained in this part, the making of returns, and the

1 ascertainment, assessment, and collection of the tax imposed under
2 this part.

3 (4) The tax imposed by this part is in addition to all other
4 taxes for which the taxpayer may be liable.

5 (5) The department shall prepare and publish statistics from
6 the records kept to administer the tax imposed by this part that
7 detail the distribution of tax receipts by type of business, legal
8 form of organization, sources of tax base, timing of tax receipts,
9 and types of deductions. The statistics shall not result in the
10 disclosure of information regarding any specific taxpayer.

11 (6) The department may require the taxpayer to remit any
12 payment due under this part to the department by an electronic
13 funds transfer method approved by the department.

14 Sec. 843. From the tax levied under this part, that percentage
15 of the gross collections before refunds that is equal to 1.012%
16 divided by the tax rate levied under this part shall be deposited
17 in the state school aid fund created in section 11 of article IX of
18 the state constitution of 1963 and the balance of the revenue
19 collected under this part after the distribution to the school aid
20 fund shall be deposited into the general fund.

21 Sec. 845. Notwithstanding any other provision of this act, a
22 person that is a disregarded entity for federal income tax purposes
23 under the internal revenue code shall be classified as a
24 disregarded entity for purposes of this part.

25 Sec. 847. The tax created under this part is levied and
26 imposed for any tax year that section 164(b)(6)(B) of the internal
27 revenue code limits the amount an individual is allowed to deduct
28 under section 164(a) of the internal revenue code for the same tax
29 year. The tax created under this part is not levied and imposed for

1 any tax year that section 164(b)(6)(B) of the internal revenue code
2 does not limit the amount an individual is allowed to deduct under
3 section 164(a) of the internal revenue code for the same tax year.

4 Enacting section 1. This amendatory act is retroactive and
5 intended to apply retroactively effective for tax years beginning
6 on and after January 1, 2021.