

# HOUSE BILL NO. 5376

October 06, 2021, Introduced by Rep. Tisdel.

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 2020 PA 65 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:

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

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

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

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

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

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

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

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

1           (f) Deduct the following to the extent included in adjusted  
2 gross income subject to the limitations and restrictions set forth  
3 in subsection (9):

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

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

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

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

1 in this subparagraph as necessary. ~~As used in this subparagraph,~~  
2 ~~"senior citizen" means that term as defined in section 514.~~

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

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

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

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

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

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

17 (ii) The amount of payment made under an advance tuition  
18 payment contract as provided in the Michigan education trust act,  
19 1986 PA 316, MCL 390.1421 to 390.1442.

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

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

26 (B) The contract applies only for a state institution of  
27 higher education as defined in the Michigan education trust act,  
28 1986 PA 316, MCL 390.1421 to 390.1442, or a community or junior  
29 college in Michigan.

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

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

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

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

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

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

1 education located outside this state with which a state institution  
2 of higher education has reciprocity.

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

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

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

15 (p) Beginning on and after January 1, 2007, subject to any  
16 limitation provided in this subdivision, a taxpayer who is a senior  
17 citizen may deduct to the extent included in adjusted gross income,  
18 interest, dividends, and capital gains received in the tax year not  
19 to exceed \$9,420.00 for a single return and \$18,840.00 for a joint  
20 return. The maximum amounts allowed under this subdivision shall be  
21 reduced by the amount of a deduction claimed for retirement or  
22 pension benefits under subdivision (e) or a deduction claimed under  
23 subdivision (f) (i), (ii), (iv), or (v). For the 2008 tax year and each  
24 tax year after 2008, the maximum amounts allowed under this  
25 subdivision shall be adjusted by the percentage increase in the  
26 United States Consumer Price Index for the immediately preceding  
27 calendar year. The department shall annualize the amounts provided  
28 in this subdivision as necessary. Beginning January 1, 2012, the  
29 deduction under this subdivision 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 **and any direct or indirect allocated**  
7 **share of a refund received by a flow-through entity under part 4.**

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

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

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

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

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

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

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

14 (t) Deduct all of the following:

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

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

28 (iii) To the extent included in adjusted gross income,  
29 distributions that are qualified withdrawals from an education



1 savings account to the designated beneficiary of that education  
2 savings account.

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

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

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

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

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

28 (B) All interest and passive dividends.

29 (C) All rents and royalties derived from real property located

1 within the agreement area.

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

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

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

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

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

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

18 (J) All gaming winnings.

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

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

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

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

28 (w) ~~For tax years beginning after December 31, 2011, eliminate~~  
29 **Eliminate** 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, 2015, deduct~~  
6 **Deduct** all of the following:

7 (i) To the extent not deducted in determining adjusted gross  
8 income, contributions made by the taxpayer in the tax year less  
9 qualified withdrawals made in the tax year from an ABLE savings  
10 account, pursuant to the Michigan achieving a better life  
11 experience (ABLE) program act, 2015 PA 160, MCL 206.981 to 206.997,  
12 not to exceed a total deduction of \$5,000.00 for a single return or  
13 \$10,000.00 for a joint return per tax year. The amount calculated  
14 under this subparagraph for an ABLE savings account shall not be  
15 less than zero.

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

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

23 ~~(y) For tax years that begin after December 31, 2015, add,~~  
24 **Add,** to the extent not included in adjusted gross income, the  
25 amount of money withdrawn by the taxpayer in the tax year from an  
26 ABLE savings account, not to exceed the total amount deducted under  
27 subdivision (x) in the tax year and all previous tax years, if the  
28 withdrawal was not a qualified withdrawal as provided in the  
29 Michigan achieving a better life experience (ABLE) program act,

1 2015 PA 160, MCL 206.981 to 206.997. This subdivision does not  
2 apply to withdrawals that are less than the sum of all  
3 contributions made to an ABLE savings account in all previous tax  
4 years for which no deduction was claimed under subdivision (x),  
5 less any contributions for which no deduction was claimed under  
6 subdivision (x) that were withdrawn in all previous tax years.

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

11 (aa) For the 2016, 2017, 2018, and 2019 tax years and for each  
12 tax year that begins on and after January 1, 2025, a taxpayer who  
13 is a disabled veteran may deduct, to the extent included in  
14 adjusted gross income, income reported on a federal income tax form  
15 1099-C that is attributable to the cancellation or discharge of a  
16 student loan by the United States Department of Education pursuant  
17 to the total and permanent disability discharge program, 34 CFR  
18 685.213. As used in this subdivision, "disabled veteran" means an  
19 individual who meets either of the following criteria:

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

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

26 (2) Except as otherwise provided in subsection (7) and section  
27 30a, a personal exemption of \$3,700.00 multiplied by the number of  
28 personal and dependency exemptions shall be subtracted in the  
29 calculation that determines taxable income. The number of personal

1 and dependency exemptions allowed shall be determined as follows:

2 (a) Each taxpayer may claim 1 personal exemption. However, if  
3 a joint return is not made by the taxpayer and his or her spouse,  
4 the taxpayer may claim a personal exemption for the spouse if the  
5 spouse, for the calendar year in which the taxable year of the  
6 taxpayer begins, does not have any gross income and is not the  
7 dependent of another taxpayer.

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

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

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

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

28 (b) ~~For tax years beginning after 2007,~~ \$250.00 for each  
29 taxpayer and every dependent of the taxpayer who is a qualified

1 disabled veteran. When a dependent of a taxpayer files an annual  
2 return under this part, the taxpayer or dependent of the taxpayer,  
3 but not both, may claim the additional exemption allowed under this  
4 subdivision. As used in this subdivision:

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

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

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

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

19 (5) A nonresident or a part-year resident is allowed that  
20 proportion of an exemption or deduction allowed under subsection  
21 (2), (3), or (4) that the taxpayer's portion of adjusted gross  
22 income from Michigan sources bears to the taxpayer's total adjusted  
23 gross income.

24 (6) In calculating taxable income, a taxpayer shall not  
25 subtract from adjusted gross income the amount of prizes won by the  
26 taxpayer under the McCauley-Traxler-Law-Bowman-McNeely lottery act,  
27 1972 PA 239, MCL 432.1 to 432.47.

28 (7) For each tax year beginning on and after January 1, 2013,  
29 the personal exemption allowed under subsection (2) shall be

1 adjusted by multiplying the exemption for the tax year beginning in  
2 2012 by a fraction, the numerator of which is the United States  
3 Consumer Price Index for the state fiscal year ending in the tax  
4 year prior to the tax year for which the adjustment is being made  
5 and the denominator of which is the United States Consumer Price  
6 Index for the 2010-2011 state fiscal year. For the 2022 tax year  
7 and each tax year after 2022, the adjusted amount determined under  
8 this subsection shall be increased by an additional \$600.00. The  
9 resultant product shall be rounded to the nearest \$100.00  
10 increment. For each tax year, the exemptions allowed under  
11 subsection (3) shall be adjusted by multiplying the exemption  
12 amount under subsection (3) for the tax year by a fraction, the  
13 numerator of which is the United States Consumer Price Index for  
14 the state fiscal year ending the tax year prior to the tax year for  
15 which the adjustment is being made and the denominator of which is  
16 the United States Consumer Price Index for the 1998-1999 state  
17 fiscal year. The resultant product shall be rounded to the nearest  
18 \$100.00 increment.

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

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

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

26 (ii) Individual retirement accounts that qualify under section  
27 408 of the internal revenue code if the distributions are not made  
28 until the participant has reached 59-1/2 years of age, except in  
29 the case of death, disability, or distributions described by

1 section 72(t) (2) (A) (iv) of the internal revenue code.

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

29 (c) Beginning January 1, 2013 for a person born in 1946

1 through 1952 and beginning January 1, 2018 for a person born after  
2 1945 who has retired as of January 1, 2013, if that person receives  
3 retirement or pension benefits from employment with a governmental  
4 agency that was not covered by the federal social security act,  
5 chapter 531, 49 Stat 620, the sum of the deductions under  
6 subsection (1)(f)(i), (ii), and (iv) is limited to \$35,000.00 for a  
7 single return and, except as otherwise provided under this  
8 subdivision, \$55,000.00 for a joint return. If both spouses filing  
9 a joint return receive retirement or pension benefits from  
10 employment with a governmental agency that was not covered by the  
11 federal social security act, chapter 531, 49 Stat 620, the sum of  
12 the deductions under subsection (1)(f)(i), (ii), and (iv) is limited  
13 to \$70,000.00 for a joint return. After that person reaches the age  
14 of 67, the deductions under subsection (1)(f)(i), (ii), and (iv) do  
15 not apply and that person is eligible for a deduction of \$35,000.00  
16 for a single return and \$55,000.00 for a joint return, or  
17 \$70,000.00 for a joint return if applicable, which deduction is  
18 available against all types of income and is not restricted to  
19 income from retirement or pension benefits. A person who takes the  
20 deduction under subsection (1)(e) is not eligible for the  
21 unrestricted deduction of \$35,000.00 for a single return and  
22 \$55,000.00 for a joint return, or \$70,000.00 for a joint return if  
23 applicable, under this subdivision.

24 (d) Except as otherwise provided under subdivision (c) for a  
25 person who was retired as of January 1, 2013, for a person born  
26 after 1952 who has reached the age of 62 through 66 years of age  
27 and who receives retirement or pension benefits from employment  
28 with a governmental agency that was not covered by the federal  
29 social security act, chapter 531, 49 Stat 620, the sum of the

1 deductions under subsection (1) (f) (i), (ii), and (iv) is limited to  
2 \$15,000.00 for a single return and, except as otherwise provided  
3 under this subdivision, \$15,000.00 for a joint return. If both  
4 spouses filing a joint return receive retirement or pension  
5 benefits from employment with a governmental agency that was not  
6 covered by the federal social security act, chapter 531, 49 Stat  
7 620, the sum of the deductions under subsection (1) (f) (i), (ii), and  
8 (iv) is limited to \$30,000.00 for a joint return.

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

27 (f) For a joint return, the limitations and restrictions in  
28 this subsection shall be applied based on the date of birth of the  
29 older spouse filing the joint return. If a deduction under

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

16 (10) As used in this section:

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

19 (b) **"Senior citizen" means that term as defined in section**  
20 **514.**

21 (c) ~~(b)~~ "United States Consumer Price Index" means the United  
22 States Consumer Price Index for all urban consumers as defined and  
23 reported by the United States Department of Labor, Bureau of Labor  
24 Statistics.

25 **Sec. 254. (1) Except as otherwise provided under this section,**  
26 **for tax years beginning on and after January 1, 2021, a taxpayer**  
27 **who is either a member of a flow-through entity that elects to file**  
28 **a return and pay the tax imposed under part 4 or a direct or**  
29 **indirect member of another flow-through entity that elects to file**

1 a return and pay the tax imposed under part 4 may claim a credit  
2 against the tax imposed under this part in an amount equal to the  
3 member's allocated share of the tax as reported to the member by  
4 the flow-through entity pursuant to section 789(1)(d) for the tax  
5 year ending on or within the taxpayer's same tax year. A  
6 nonresident estate or trust may claim a credit against the tax  
7 imposed under this part in an amount equal to the nonresident  
8 estate's or trust's allocated share of the tax as reported to the  
9 nonresident estate or trust pursuant to section 789(1)(d) for the  
10 tax year ending on or within the taxpayer's same tax year  
11 multiplied by a percentage equal to a fraction, the numerator of  
12 which is 100 minus the rate imposed under section 51, and the  
13 denominator of which is 100.

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

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

1 accordance with section 789(2) .

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

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

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

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

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

28 (c) Add any carryback or carryover of a net operating loss to  
29 the extent deducted in arriving at federal taxable income.

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

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

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

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

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

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

29 (f) To the extent included in federal taxable income, deduct

1 interest income derived from United States obligations.

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

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

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

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

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

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

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

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



1 then successively to the next 9 taxable years following the loss  
 2 year or until the loss is used up, whichever occurs first.

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

6 Sec. 675. (1) Except as otherwise provided under this section,  
 7 for tax years beginning on and after January 1, 2021, a taxpayer  
 8 who is either a member of a flow-through entity that elects to file  
 9 a return and pay the tax imposed under part 4 or a direct or  
 10 indirect member of another flow-through entity that elects to file  
 11 a return and pay the tax imposed under part 4 may claim a credit  
 12 against the tax imposed under this part in an amount equal to the  
 13 member's allocated share of the tax as reported to the member by  
 14 the flow-through entity pursuant to section 789(1)(d) for the tax  
 15 year ending on or within the taxpayer's same tax year.

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

19 PART 4

20 CHAPTER 18

21 Sec. 751. A term used in this part and not defined differently  
 22 shall have the same meaning as when used in comparable context in  
 23 the laws of the United States relating to federal income taxes in  
 24 effect for the tax year as provided in section 753(12) unless a  
 25 different meaning is clearly required. A reference in this part to  
 26 the internal revenue code includes other provisions of the laws of  
 27 the United States relating to federal income taxes.

28 Sec. 753. (1) "Business activity" means a transfer of legal or  
 29 equitable title to or rental of property, whether real, personal,

1 or mixed, tangible or intangible, or the performance of services,  
2 or a combination thereof, made or engaged in, or caused to be made  
3 or engaged in, whether in intrastate, interstate, or foreign  
4 commerce, with the object of gain, benefit, or advantage, whether  
5 direct or indirect, to the taxpayer or to others, but does not  
6 include the services rendered by an employee to his or her  
7 employer, services as a director of a corporation or S corporation,  
8 or services as a manager of a limited liability company that has  
9 elected to file as a C corporation or S corporation for federal  
10 income tax purposes.

11 (2) "Business income" means federal taxable income and  
12 includes payments and items of income and expense that are  
13 attributable to business activity of the flow-through entity and  
14 separately reported to its members.

15 (3) "Corporation" means a person that is required or has  
16 elected to file as a C corporation as defined under section  
17 1361(a) (2) and section 7701(a) (3) of the internal revenue code.

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

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

21 (6) "Employee" means an employee as defined in section 3401(c)  
22 of the internal revenue code. A person from whom an employer is  
23 required to withhold for federal income tax purposes is prima facie  
24 considered an employee.

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

28 (8) "Federal taxable income" means taxable income as defined  
29 in section 63 of the internal revenue code without the deductions

1 described under section 703(a) (2) of the internal revenue code. For  
2 the purposes of this part in computing federal taxable income, an S  
3 corporation shall be treated as a corporation under section  
4 1361(a) (2) of the internal revenue code and a partnership shall be  
5 treated as an association taxable as a corporation pursuant to an  
6 election under 26 CFR 301.7701-3(a).

7 (9) "Financial institution" means that term as defined in  
8 section 651.

9 (10) "Flow-through entity" means an entity that for the  
10 applicable tax year is treated as an S corporation or a partnership  
11 under the internal revenue code for federal income tax purposes.  
12 Flow-through entity does not include a publicly traded partnership,  
13 any entity disregarded under section 797, or any person subject to  
14 the tax imposed under chapter 13.

15 (11) "Insurance company" means that term as defined in section  
16 607.

17 (12) "Internal revenue code" means the United States internal  
18 revenue code of 1986 in effect on January 1, 2021 or, at the option  
19 of the taxpayer, in effect for the tax year.

20 (13) "Member", when used in reference to a flow-through  
21 entity, means a shareholder of an S corporation or a partner or  
22 member in a partnership.

23 (14) "Partnership" means an entity that is required to or has  
24 elected to file as a partnership for federal income tax purposes.  
25 Partnership includes a limited liability company that is treated as  
26 a partnership for federal income tax purposes.

27 (15) "Person" means an individual, bank, financial  
28 institution, insurance company, association, corporation, flow-  
29 through entity, receiver, estate, trust, or any other group or

1 combination of groups acting as a unit.

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

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

6 (18) "Sale" or "sales" means that term as defined in section  
7 20.

8 (19) "State" means any state of the United States, the  
9 District of Columbia, the Commonwealth of Puerto Rico, any  
10 territory or possession of the United States, and any foreign  
11 country, or a political subdivision of any of the foregoing.

12 (20) "Tax" means the tax imposed under this part, including  
13 interest and penalties under this part, unless the term is given a  
14 more limited meaning in the context of this part or a provision of  
15 this part.

16 (21) "Tax year" means the calendar year, or the fiscal year  
17 ending during the calendar year, upon the basis of which the tax  
18 base of a taxpayer is computed under this part. If a return is made  
19 for a fractional part of a year, tax year means the period for  
20 which the return is made. Except for the first return required by  
21 this part, a taxpayer's tax year is for the same period as is  
22 covered by its federal income tax return. A taxpayer that has a 52-  
23 or 53-week tax year beginning not more than 7 days before the end  
24 of any month is considered to have a tax year beginning on the  
25 first day of the subsequent month.

26 (22) "Taxpayer" means a flow-through entity that elects  
27 pursuant to section 757 to be subject to the tax under this part.

28 (23) "United States person" means that term as defined in  
29 section 7701(a)(30) of the internal revenue code.

1           Sec. 755. (1) Except as otherwise provided in this part, a  
2 taxpayer has substantial nexus in this state and is subject to the  
3 tax imposed under this part if the taxpayer elects to pay the tax  
4 pursuant to section 757 and if the taxpayer has a physical presence  
5 in this state for a period of more than 1 day during the tax year,  
6 actively solicits sales in this state and has gross receipts  
7 sourced to this state, or is a member or has an ownership interest  
8 or a beneficial interest in a flow-through entity, directly, or  
9 indirectly through 1 or more other flow-through entities, that has  
10 substantial nexus in this state.

11           (2) As used in this section:

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

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

16           (ii) Speech, conduct, or activity that is purposefully directed  
17 at or intended to reach persons within this state that neither  
18 explicitly nor implicitly invites an order for a purchase or sale,  
19 but is entirely ancillary to requests for an order for a purchase  
20 or sale.

21           (b) "Gross receipts" means that term as defined under section  
22 607.

23           (c) "Physical presence" means any activity conducted by the  
24 taxpayer or on behalf of the taxpayer by the taxpayer's employee,  
25 agent, or independent contractor acting in a representative  
26 capacity. Physical presence does not include the activities of  
27 professionals providing services in a professional capacity or  
28 other service providers if the activity is not significantly  
29 associated with the taxpayer's ability to establish and maintain a

1 market in this state.

2       Sec. 757. For tax years beginning on and after January 1,  
3 2021, a flow-through entity may, in a form and manner as prescribed  
4 by the department, elect to file a return and pay the tax imposed  
5 by this part. An election made under this section is an irrevocable  
6 election that shall continue for the next 2 subsequent tax years  
7 and the taxpayer shall continue to file a return and pay the tax  
8 imposed under this part as provided in section 785. A flow-through  
9 entity that elects to pay the tax imposed under this part shall  
10 file its election with the department on or before the fifteenth  
11 day of the third month of that tax year. However, an election made  
12 for the tax year ending in 2021 must be made before the fifteenth  
13 day of the fourth calendar month after the effective date of the  
14 amendatory act that added this section. A separate election must be  
15 made after the expiration of the irrevocable period described in  
16 this section to continue to pay the tax imposed by this part.

17       Sec. 759. (1) Beginning January 1, 2021 and each tax year  
18 after 2021, there is levied and imposed a flow-through entity tax  
19 on every taxpayer with business activity in this state unless  
20 prohibited by 15 USC 381 to 384. Except as otherwise provided under  
21 subsection (5), the flow-through entity tax is imposed on the  
22 positive business income tax base, after allocation or  
23 apportionment to this state, at the same rate levied and imposed  
24 under section 51 for that same tax year. A negative business income  
25 tax base of a flow-through entity, after allocation or  
26 apportionment to this state, is includible in the business income  
27 tax base of each member of the flow-through entity and is not  
28 available as an offset to the allocated or apportioned business  
29 income tax base of the flow-through entity in any other tax year

1 for which an election is made under section 757.

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

6 (a) Add interest income and dividends derived from obligations  
7 or securities of states other than this state, in the same amount  
8 that was excluded from federal taxable income, less the related  
9 portion of expenses not deducted in computing federal taxable  
10 income because of sections 265 and 291 of the internal revenue  
11 code.

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

16 (c) Deduct, to the extent included in federal taxable income,  
17 income derived from obligations, or the sale or exchange of  
18 obligations, of the United States government that this state is  
19 prohibited by law from subjecting to a net income tax, reduced by  
20 any interest on indebtedness incurred in carrying the obligations  
21 and by any expenses incurred in the production of that income to  
22 the extent that the expenses, including amortizable bond premiums,  
23 were deducted in arriving at federal taxable income.

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

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

29 (f) Deduct guaranteed payments for services rendered by a

1 member who is an individual to the extent that those guaranteed  
2 payments were included in federal taxable income.

3 (g) Deduct, to the extent included in federal taxable 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 (h) Deduct business income received as a member of another  
11 flow-through entity to the extent that the business income  
12 increased federal taxable income.

13 (i) Eliminate all of the following:

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

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

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

20 (iv) Expenses related to the income deductible under  
21 subparagraph (iii) to the extent deducted in arriving at federal  
22 taxable income.

23 (3) For a taxpayer that has a direct, or indirect through 1 or  
24 more other flow-through entities, ownership or beneficial interest  
25 in a flow-through entity for which an election was made under  
26 section 757 and that reported positive business income in a tax  
27 year ending on or within the taxpayer's tax year, the adjustments  
28 in subsection (2) shall not include the taxpayer's share of the  
29 electing flow-through entities adjustments under subsection (2).



1           (4) For a taxpayer that has a direct, or indirect through 1 or  
2 more other flow-through entities, ownership or beneficial interest  
3 in a flow-through entity for which an election was not made under  
4 section 757, add the taxpayer's share of the non-electing flow-  
5 through entity's positive business income as determined under  
6 section 761(2).

7           (5) In computing the tax due under this part, the taxpayer  
8 shall pay the tax due only on the business income tax base  
9 allocable to those members who are individuals, flow-through  
10 entities, estates, or trusts and exclude the business income tax  
11 base allocable to those members that are corporations, insurance  
12 companies, or financial institutions. The department may require  
13 the taxpayer to disclose identifying information for all members of  
14 the taxpayer and the allocable share of business income for each  
15 member.

16           (6) As used in this section:

17           (a) "Mineral" means that term as defined in section 2 of the  
18 nonferrous metallic minerals extraction severance tax act, 2012 PA  
19 410, MCL 211.782.

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

22           (c) "Qualified taxpayer" means a taxpayer subject to the  
23 minerals severance tax levied under the nonferrous metallic  
24 minerals extraction severance tax act, 2012 PA 410, MCL 211.781 to  
25 211.791.

26           Sec. 761. (1) Except as otherwise provided in this part, the  
27 business income tax base established under this part shall be  
28 apportioned in accordance with allocation and apportionment  
29 provisions in chapter 3.

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

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

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

14           (b) That state has jurisdiction to subject the taxpayer to 1  
15 or more of the taxes listed in subdivision (a) regardless of  
16 whether, in fact, that state does or does not subject the taxpayer  
17 to that tax.

18           Sec. 771. Any taxpayer allocated income as a member of a flow-  
19 through entity by the flow-through entity may not claim a credit  
20 against the tax imposed by this part for the taxpayer's allocated  
21 share of the tax as reported by the other flow-through entity  
22 pursuant to section 789(1)(d) for the tax year ending on or within  
23 the taxpayer's same tax year.

24           Sec. 781. (1) Except as otherwise provided under this section,  
25 a taxpayer that reasonably expects liability for the tax year to  
26 exceed \$800.00 shall file an estimated return and pay an estimated  
27 tax for each quarter of the taxpayer's tax year in the same manner  
28 as provided in section 301.

29           (2) The interest and penalty provided by this part shall not

1 be assessed for the 2022 tax year and each subsequent tax year, if  
2 the preceding year's tax liability under this part was \$20,000.00  
3 or less and if the taxpayer submitted 4 equal installments the sum  
4 of which equals the immediately preceding tax year's tax liability.

5 (3) Each estimated return shall be made on a form prescribed  
6 by the department and shall include an estimate of the annual tax  
7 liability and other information required by the state treasurer.  
8 The form prescribed under this subsection may be combined with any  
9 other tax reporting form prescribed by the department.

10 (4) Payments made under this section shall be a credit against  
11 the payment required with the annual tax return required in section  
12 785.

13 (5) If the department considers it necessary to insure payment  
14 of the tax or to provide a more efficient administration of the  
15 tax, the department may require filing of the returns and payment  
16 of the tax for other than quarterly or annual periods.

17 Sec. 785. (1) An annual or final return for the tax imposed  
18 under this part shall be filed with the department in the form and  
19 content prescribed by the department by the last day of the third  
20 month after the end of the taxpayer's tax year. Any final liability  
21 shall be remitted by the annual due date of the taxpayer's annual  
22 or final return, excluding any extension of time to file the return  
23 as provided under subsections (2) and (3). A taxpayer that elected  
24 to file a return for 3 years under section 757 whose tax liability  
25 under this part is less than or equal to \$100.00 shall file an  
26 information return in accordance with section 711.

27 (2) The department, upon application of the taxpayer and for  
28 good cause shown, may extend the date for filing the annual return.  
29 Interest at the rate under section 23(2) of 1941 PA 122, MCL

1 205.23, shall be added to the amount of the tax unpaid for the  
2 period of the extension. The state treasurer shall require with the  
3 application payment of the estimated tax liability unpaid for the  
4 tax period covered by the extension.

5 (3) If a taxpayer is granted an extension of time within which  
6 to file the federal income tax return for any tax year, the filing  
7 of a copy of the request for extension together with a tentative  
8 return and payment of an estimated tax with the department by the  
9 due date provided in subsection (1) shall automatically extend the  
10 due date for the filing of an annual or final return under this  
11 part until the last day of the sixth month following the original  
12 due date of the return. Interest at the rate under section 23(2) of  
13 1941 PA 122, MCL 205.23, shall be added to the amount of the tax  
14 unpaid for the period of the extension.

15 Sec. 787. (1) A taxpayer required to file a return under this  
16 part may be required to furnish a true and correct copy of any  
17 return or portion of any return filed under the provisions of the  
18 internal revenue code.

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

24 Sec. 789. (1) A taxpayer or a flow-through entity that did not  
25 make the election under section 757 shall provide on or before the  
26 due date of the return under section 785, upon the amendment of a  
27 return filed under section 785 or the adjustment of the tax under  
28 this part by the department, to any member to which the provision  
29 of information is required by the internal revenue code all of the

1 following for the tax year:

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

5 (b) The member's allocable share of the reporting flow-through  
6 entity's taxes calculated under section 759(2)(e) on or measured by  
7 net income including the tax imposed by this part for the tax year.  
8 The member's allocable share of taxes calculated under section  
9 759(2)(e) and allocated to the reporting flow-through entity by  
10 other flow-through entities with tax years ending on or within the  
11 reporting flow-through entity's tax year.

12 (c) The member's allocable share of the reporting flow-through  
13 entity's refund calculated under section 759(2)(g). The member's  
14 allocable share of refunds calculated under section 759(2)(g) and  
15 allocated to the reporting flow-through entity by other flow-  
16 through entities with tax years ending on or within the reporting  
17 flow-through entity's tax year.

18 (d) Each of the following:

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

22 (ii) The member's share of the tax imposed under this part on  
23 the taxpayer for any prior tax year and paid within the tax year  
24 excluding any amount reported under subparagraph (i) for the  
25 previous tax year.

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

1           (e) The member's share of the tax allocated under subdivision  
2           (d) must be determined based on the member's share of the income or  
3           gain generating the tax imposed under this part and included in the  
4           member's share of business income. If a member is allocated  
5           different portions of separately reported categories of income and  
6           gain, then the allocated share of tax must be based on the tax  
7           imposed under this part on each separate category of income or  
8           gain.

9           (2) An estate or trust that is either a member of a flow-  
10          through entity that elects to file a return and pay the tax imposed  
11          under this part or a direct or indirect member of another flow-  
12          through entity that elects to file a return and pay the tax imposed  
13          under this part shall on or before the due date of the return  
14          required under part 1 report to its beneficiaries their allocable  
15          share of the tax imposed under this part and reported to the estate  
16          or trust under section 789(1)(d) in the same tax year. The  
17          allocable share is determined by multiplying the total amount of  
18          tax imposed under this part and reported to the estate or trust  
19          under section 789(1)(d) in the tax year by a percentage equal to a  
20          fraction, the numerator of which is the flow-through entity  
21          business income tax base that is distributed to the beneficiaries  
22          and the denominator of which is the total flow-through entity  
23          business income tax base that is included in distributable net  
24          income.

25          Sec. 791. (1) The tax imposed by this part shall be  
26          administered by the department of treasury pursuant to 1941 PA 122,  
27          MCL 205.1 to 205.31, and this part. If a conflict exists between  
28          1941 PA 122, MCL 205.1 to 205.31, and this part, the provisions of  
29          this part apply.

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

4           (3) The department shall prescribe forms for use by taxpayers  
5 and may promulgate rules in conformity with this part for the  
6 maintenance by taxpayers of records, books, and accounts, and for  
7 the computation of the tax, the manner and time of changing or  
8 electing accounting methods and of exercising the various options  
9 contained in this part, the making of returns, and the  
10 ascertainment, assessment, and collection of the tax imposed under  
11 this part.

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

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

20           Sec. 793. From the tax levied under this part, that percentage  
21 of the gross collections before refunds that is equal to 1.012%  
22 divided by the tax rate levied under this part shall be deposited  
23 in the state school aid fund created in section 11 of article IX of  
24 the state constitution of 1963 and the balance of the revenue  
25 collected under this part after the distribution to the school aid  
26 fund shall be deposited into the general fund.

27           Sec. 797. Notwithstanding any other provision of this act, a  
28 person that is a disregarded entity for federal income tax purposes  
29 under the internal revenue code shall be classified as a

1 **disregarded entity for purposes of this part.**

2 Enacting section 1. (1) Except as otherwise provided under  
3 subsection (2) for section 30(1)(aa) as added by this amendatory  
4 act, this amendatory act is retroactive and applies retroactively  
5 effective for tax years beginning on and after January 1, 2021.

6 (2) Section 30(1)(aa) as added by this amendatory act is  
7 retroactive and applies retroactively effective for the 2016, 2017,  
8 2018, and 2019 tax years.