Michigan Governor Signs Legislation Phasing Out Retirement Tax and Raising Working Families Tax Credit

Michigan Governor Gretchen Whitmer signed legislation on March 7, 2023, that phases out the state's "retirement tax" over four years; equalizes the exemption on both public and private pensions; and quintuple the Michigan Working Families Tax Credit match of the federal **Earned Income Tax Credit** to 30%, from the current 6%. For the 2022 tax year only, a taxpayer that claims a **Working Families Tax Credit** is entitled to an additional credit in an amount equal to 24% of the credit the taxpayer is allowed to under the federal EITC. A rebate provision in the bill will not take effect.

Retirement and pension income

The bill allows a taxpayer, beginning in the 2023 tax year, to choose between the current limitations on the deductibility of retirement and pension income or the limitations specified in the bill.

Under the bill, a taxpayer may elect to deduct retirement or pension benefits as follows:

- **For the 2023 tax year,** a taxpayer who was born after 1945 and before 1959 may deduct an amount of retirement or pension benefits not to exceed 25% of the maximum amount of retirement or pension benefits that the taxpayer would be allowed to deduct for the tax year under *Mich. Comp. Laws Ann. § 206.30(1)(f)(iv)* if the taxpayer's retirement or pension benefits were subject to the limitations of that subsection only.

- **For the 2024 tax year,** a taxpayer who was born after 1945 and before 1963 may deduct an amount of retirement or pension benefits not to exceed 50% of the maximum amount of retirement or pension benefits that the taxpayer would be allowed to deduct for the tax year under *Mich. Comp. Laws Ann. § 206.30(1)(f)(iv)* if the taxpayer's retirement or pension benefits were subject to the limitations of that subsection only.

- **For the 2025 tax year,** a taxpayer who was born after 1945 and before 1967 may deduct an amount of retirement or pension benefits not to exceed 75% of the maximum amount of retirement or pension benefits that the taxpayer would be allowed to deduct for the tax year under *Mich. Comp. Laws Ann. § 206.30(1)(f)(iv)* if the taxpayer's retirement or pension benefits were subject to the limitations of that subsection only.

- **For the 2026 tax year and each tax year after 2026,** a taxpayer may deduct retirement or pension benefits as provided under *Mich. Comp. Laws Ann. § 206.30(1)(f)* , except that the amounts deductible under *Mich. Comp. Laws Ann. § 206.30(1)(f)(i)* and *Mich. Comp. Laws Ann. § 206.30(1)(f)(ii)* combined are subject to the same maximum amounts allowed under *Mich. Comp. Laws Ann. § 206.30(1)(f)(iv)* for a single return and a joint return for that same tax year.

For a joint return, the limitations and restrictions are applied based on the date of birth of the older spouse filing the joint return. If a deduction under *Mich. Comp. Laws Ann. § 206.30(1)(f)* was claimed on a joint return for a tax year in which a spouse died and the surviving spouse has not remarried since the death of that spouse, the surviving spouse is entitled to claim the deduction under *Mich. Comp. Laws Ann. § 206.30(1)(f)* in subsequent tax years subject to the same restrictions and limitations under this provision, for a single return, that would have applied based on the date of birth of the older of the two spouses.

For tax years beginning on and after January 1, 2023, in determining taxable income, a taxpayer with retirement or pension benefits received for services as a public police or fire department employee, a state police trooper or state police sergeant, or a corrections officer employed by a county sheriff in a county jail, work camp, or other facility maintained by a county that houses adult prisoners may elect to deduct retirement or pension benefits as provided under *Mich. Comp. Laws Ann. § 206.30(1)(f)* without any additional limitations or restrictions or elect to apply the limitations and restrictions in *Mich. Comp. Laws Ann. § 206.30(9)* or the new provisions explained herein.

Working Families Tax Credit increase

The bill increases from 6% to 30% the **Earned Income Tax Credit (EITC)**, beginning with the 2023 tax year, and specifies that for the 2022 tax year only, a taxpayer that claims a **Working Families Tax Credit** is entitled to an additional credit in an amount equal to 24% of the credit the taxpayer is allowed to under the federal EITC. The Michigan Department of Treasury will calculate the amount of the additional credit that each taxpayer is entitled to receive and must refund the amount of the additional credit as soon as practical. The Department must issue any refund under this provision to the taxpayer in the form of a fully negotiable check.

Rebate provision

The bill specifies that if it took effect before April 18, 2023, an eligible taxpayer could receive a rebate of his or her individual income tax (IIT) for 2022. However, the bill did not receive sufficient votes for immediate effect, and so these changes will not take effect by the date specified.