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By: **Delegates McMillan, Cluster, C. Davis, Fulton, Goodwin, Minnick,  
Paige, and Weir**

Introduced and read first time: February 13, 2004

Assigned to: Ways and Means

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A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax - Subtraction Modification for Retirement Income - Rollovers to**  
3 **Individual Retirement Accounts**

4 FOR the purpose of including income from certain retirement plans within a certain  
5 subtraction modification allowed under the Maryland income tax for certain  
6 retirement income under certain circumstances; providing for the application of  
7 this Act; and generally relating to an income tax subtraction modification for  
8 certain retirement income.

9 BY repealing and reenacting, with amendments,  
10 Article - Tax - General  
11 Section 10-209  
12 Annotated Code of Maryland  
13 (1997 Replacement Volume and 2003 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article - Tax - General**

17 10-209.

18 (a) In this section:

- 19 (1) "employee retirement system" means a plan:
  - 20 (i) established and maintained by an employer for the benefit of its
  - 21 employees; and
  - 22 (ii) qualified under § 401(a), § 403, or § 457(b) of the Internal
  - 23 Revenue Code; and

24 (2) "employee retirement system" does not include:

1 (i) an individual retirement account or annuity under § 408 of the  
2 Internal Revenue Code;

3 (ii) a Roth individual retirement account under § 408A of the  
4 Internal Revenue Code;

5 (iii) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, a  
6 rollover individual retirement account;

7 (iv) a simplified employee pension under Internal Revenue Code §  
8 408(k); or

9 (v) an ineligible deferred compensation plan under § 457(f) of the  
10 Internal Revenue Code.

11 (b) To determine Maryland adjusted gross income, if, on the last day of the  
12 taxable year, a resident is at least 65 years old or is totally disabled or the resident's  
13 spouse is totally disabled, an amount is subtracted from federal adjusted gross  
14 income equal to the lesser of:

15 (1) the cumulative or total annuity, pension, or endowment income from  
16 an employee retirement system included in federal adjusted gross income; or

17 (2) the maximum annual benefit under the Social Security Act computed  
18 under subsection (c) of this section, less any payment received as old age, survivors, or  
19 disability benefits under the Social Security Act, the Railroad Retirement Act, or both.

20 (c) For purposes of subsection (b)(2) of this section, the Comptroller:

21 (1) shall determine the maximum annual benefit under the Social  
22 Security Act allowed for an individual who retired at age 65 for the prior calendar  
23 year; and

24 (2) may allow the subtraction to the nearest \$100.

25 (D) FOR PURPOSES OF THIS SECTION, A DISTRIBUTION FROM A ROLLOVER  
26 INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY ESTABLISHED UNDER § 408 OF THE  
27 INTERNAL REVENUE CODE SHALL BE TREATED AS INCOME FROM AN EMPLOYEE  
28 RETIREMENT SYSTEM IF CONTRIBUTIONS TO THE ROLLOVER INDIVIDUAL  
29 RETIREMENT ACCOUNT OR ANNUITY CONSIST ENTIRELY OF THE TAX-FREE  
30 ROLLOVER OF DISTRIBUTIONS FROM AN EMPLOYEE RETIREMENT SYSTEM  
31 RESULTING FROM A MANDATORY WITHDRAWAL OF AMOUNTS IN THE EMPLOYEE  
32 RETIREMENT SYSTEM.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
34 effect July 1, 2004, and shall be applicable to all taxable years beginning after  
35 December 31, 2003.