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TESTIMONY IN SUPPORT OF HB682
Income Tax- Subtraction Modification-Retirement Income

Ways and Means Committee
February 20, 2020

Chair Kaiser, Vice-Chair Washington and Members of the Committee,

Thank you for the opportunity to testify before you on HB682, Income Tax-Subtraction Modification- Retirement Income. The purpose of this bill is to expand the pension exclusion currently available on qualified defined benefit and defined contribution pension plans, 401(a) plans, 401(k) plans, 403(b) plans, and 457(b) plans to rollover IRA's or annuities if the contributions consist entirely of the tax-free rollover of distributions from an employee retirement system.

Currently, Maryland law provides a pension exclusion (in the form of a subtraction modification) for individuals who are at least 65 years old or who are totally disabled. Under this subtraction modification, up to a specific maximum amount of taxable pension income ($31,100 for 2019) may be exempt for tax. The maximum allowed is indexed to the maximum annual benefit payable under the Social Security Act and is reduced by the amount of any Social Security payments received (Social Security offset).

Under current law, traditional IRA, Roth IRA, Simplified Employee Plans (SEP) and Keogh Plans do not qualify. This bill is a reasonable solution to the unequal treatment of income from employer-sponsored retirement plans and rollover IRA's. This bill extends that tax relief for distributions from non-qualitied plans.

This subtraction modification will provide some much needed tax relief to those tax payers who have had their defined benefit plans shifted to defined contributions systems, whether by their choice or as a forced transfer. Contributions made to these types of deferred accounts are subject to the same withdrawal restrictions and early withdrawal penalties that are applicable to qualified pension, tax saving annuity and deferred compensation plans.

This exclusion was originally enacted to benefit federal employees. Prior to 1984, federal employees were covered under the Civil Service Retirement System, and, as a result, they did not participate in the Social Security program. At the same time, because the federal government does not tax social security, this flows through to State taxes and

Maryland does not tax social security. In the 1960's federal employees raised the issue that this was not equitable as they paid taxes on their pensions but retirees who retired on social security did not.

The pension exclusion was enacted to remedy this inequity and allowed retirees (not just federal retirees) to exempt from Maryland tax and amount equal to the maximum social security amount minus any social security received. Since 1984, federal employees were covered by social security and the prior inequity no longer exists.

Further, The Federal Tax Cuts and Jobs Act of 2017 was signed into law on December 22, 2017, and enacted significant changes to federal taxes, including the personal income tax. Several of the Act's provisions impact State income taxes. As a result, the Office of the Comptroller prepared a 60 Day Report on the estimated impact on the State of Maryland. This report reflects that 13% of the State's population, saw increased federal tax of $782 million.

However, because the State and local tax (SALT) works in concert with the federal code, Marylanders were limited to $10,000 deduction for property and State and local taxes paid. The impact to Maryland is a windfall of approximately $572, 276 million for FY2019 and $450,967 million for FY2020 into the state's general fund. This dividend will offset the fiscal note associated with providing the much needed pension exclusion to non-qualified plans.

HB682 offers fairness to all Maryland retirees. For these reasons, I am requesting a favorable report.

With kindest regards,

Benjamin Brooks