

HOUSE BILL 59

Unofficial Copy
Q3

2004 Regular Session
4r0912

(PRE-FILED)

By: **Delegate Boschert**

Requested: November 12, 2003

Introduced and read first time: January 14, 2004

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax - Subtraction Modification for Retirement Income**

3 FOR the purpose of altering the computation of a certain subtraction modification for
4 certain retirement income allowed for certain individuals who are at least a
5 certain age or who are disabled or whose spouse is disabled; requiring the
6 Comptroller to make certain determinations under certain circumstances;
7 providing for the application of this Act, subject to certain contingencies; and
8 generally relating to a subtraction modification under the income tax for certain
9 individuals for certain retirement income.

10 BY repealing and reenacting, with amendments,
11 Article - Tax - General
12 Section 10-209
13 Annotated Code of Maryland
14 (1997 Replacement Volume and 2003 Supplement)

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

17 **Article - Tax - General**

18 10-209.

19 (a) In this section:

20 (1) "employee retirement system" means a plan:

21 (i) established and maintained by an employer for the benefit of its
22 employees; and

23 (ii) qualified under § 401(a), § 403, or § 457(b) of the Internal
24 Revenue Code; and

25 (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) a rollover individual retirement account;
- 6 (iv) a simplified employee pension under Internal Revenue Code §
7 408(k); or
- 8 (v) an ineligible deferred compensation plan under § 457(f) of the
9 Internal Revenue Code.

10 (b) (1) [To] SUBJECT TO THE LIMITATION UNDER PARAGRAPH (2) OF THIS
11 SUBSECTION, 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
20 both.]

21 (2) (I) THE SUBTRACTION UNDER THIS SECTION MAY NOT EXCEED AN
22 AMOUNT EQUAL TO THE MAXIMUM PENSION EXCLUSION AMOUNT DETERMINED
23 UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH, LESS ANY PAYMENT RECEIVED AS
24 OLD AGE, SURVIVORS, OR DISABILITY BENEFITS UNDER THE SOCIAL SECURITY ACT,
25 THE RAILROAD RETIREMENT ACT, OR BOTH.

26 (II) THE MAXIMUM PENSION EXCLUSION AMOUNT IS:

27 1. FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,
28 2004 BUT BEFORE JANUARY 1, 2006, 105% OF THE MAXIMUM ANNUAL BENEFIT UNDER
29 THE SOCIAL SECURITY ACT COMPUTED UNDER SUBSECTION (C) OF THIS SECTION;

30 2. FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,
31 2005 BUT BEFORE JANUARY 1, 2007, 110% OF THE MAXIMUM ANNUAL BENEFIT UNDER
32 THE SOCIAL SECURITY ACT COMPUTED UNDER SUBSECTION (C) OF THIS SECTION;

33 3. FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,
34 2006 BUT BEFORE JANUARY 1, 2008, 115% OF THE MAXIMUM ANNUAL BENEFIT UNDER
35 THE SOCIAL SECURITY ACT COMPUTED UNDER SUBSECTION (C) OF THIS SECTION;
36 AND

1 least .05% the estimated General Fund revenues for fiscal year 2006 submitted by the
2 Board of Revenue Estimates, including all revisions.

3 (2) If the Comptroller determines that the actual State General Fund
4 revenues for fiscal year 2006 exceeded the estimated revenues by at least .05%, this
5 Act shall be applicable to all taxable years beginning after December 31, 2006.

6 (3) If the Comptroller determines that the actual State General Fund
7 revenues for fiscal year 2006 did not exceed the estimated revenues by at least .05%,
8 this Act shall be null and void without the necessity of further action by the General
9 Assembly.

10 SECTION 3. AND BE IT FURTHER ENACTED, That, subject to Section 2 of
11 this Act, this Act shall take effect October 1, 2004.