
By: **Senators Hooper, Colburn, Jacobs, and Mooney**
Introduced and read first time: February 6, 2004
Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax - Pension Exclusion - Application to Spouses Filing a Joint**
3 **Return**

4 FOR the purpose of expanding the pension exclusion allowed for State income tax
5 purposes for individuals who are at least 65 years old or who are disabled or
6 whose spouse is disabled, to provide that the maximum amount of the
7 subtraction allowed for spouses filing a joint return is based on twice the
8 maximum annual Social Security benefit amount; providing for the application
9 of this Act; and generally relating to a pension exclusion allowed for State
10 income tax purposes.

11 BY repealing and reenacting, with amendments,
12 Article - Tax - General
13 Section 10-209
14 Annotated Code of Maryland
15 (1997 Replacement Volume and 2003 Supplement)

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

18 **Article - Tax - General**

19 10-209.

20 (a) In this section:

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

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

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

26 (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) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
22 PARAGRAPH, FOR ANY TAXPAYER, THE SUBTRACTION UNDER THIS SECTION MAY
23 NOT EXCEED AN AMOUNT EQUAL TO THE MAXIMUM ANNUAL BENEFIT UNDER THE
24 SOCIAL SECURITY ACT COMPUTED UNDER SUBSECTION (C) OF THIS SECTION, LESS
25 ANY PAYMENT RECEIVED AS OLD AGE, SURVIVORS, OR DISABILITY BENEFITS UNDER
26 THE SOCIAL SECURITY ACT, THE RAILROAD RETIREMENT ACT, OR BOTH.

27 (II) FOR SPOUSES FILING A JOINT RETURN, THE SUBTRACTION
28 UNDER THIS SECTION MAY NOT EXCEED AN AMOUNT EQUAL TO TWICE THE
29 MAXIMUM ANNUAL BENEFIT UNDER THE SOCIAL SECURITY ACT COMPUTED UNDER
30 SUBSECTION (C) OF THIS SECTION, LESS ANY PAYMENTS RECEIVED AS OLD AGE,
31 SURVIVORS, OR DISABILITY BENEFITS UNDER THE SOCIAL SECURITY ACT, THE
32 RAILROAD RETIREMENT ACT, OR BOTH.

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

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

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

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 July 1, 2004, and shall be applicable to all taxable years beginning after December 31,
3 2003.