

(PRE-FILED)

By: **Delegates Love, Boschert, Cryor, F. Turner, James, Taylor, Dumais,
Minnick, Rudolph, Bromwell, Trueschler, Glassman, McMillan, Kaiser,
Cadden, and Miller**

Requested: July 20, 2005

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Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of altering a certain subtraction modification under the Maryland
4 income tax for military retirement income over a certain period of time;
5 providing that retirement income that is included in a certain subtraction may
6 not be taken into account for purposes of a certain subtraction modification
7 allowed under the income tax for certain individuals who are at least a certain
8 age or who are disabled or have disabled spouses; defining certain terms;
9 providing for the application of this Act; and generally relating to a subtraction
10 modification for military retirement income.

11 BY repealing and reenacting, without amendments,
12 Article - Tax - General
13 Section 10-207(a)
14 Annotated Code of Maryland
15 (2004 Replacement Volume and 2005 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article - Tax - General
18 Section 10-207(q) and 10-209
19 Annotated Code of Maryland
20 (2004 Replacement Volume and 2005 Supplement)

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

1 **Article - Tax - General**

2 10-207.

3 (a) To the extent included in federal adjusted gross income, the amounts under
4 this section are subtracted from the federal adjusted gross income of a resident to
5 determine Maryland adjusted gross income.

6 (q) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
7 MEANINGS INDICATED.

8 (II) "MILITARY SERVICE" MEANS:

9 1. INDUCTION INTO THE ARMED FORCES OF THE UNITED
10 STATES FOR TRAINING AND SERVICE UNDER THE SELECTIVE TRAINING AND
11 SERVICE ACT OF 1940 OR A SUBSEQUENT ACT OF A SIMILAR NATURE;

12 2. MEMBERSHIP IN A RESERVE COMPONENT OF THE ARMED
13 FORCES OF THE UNITED STATES;

14 3. MEMBERSHIP IN AN ACTIVE COMPONENT OF THE ARMED
15 FORCES OF THE UNITED STATES;

16 4. MEMBERSHIP IN THE MARYLAND NATIONAL GUARD; OR

17 5. ACTIVE DUTY WITH THE COMMISSIONED CORPS OF THE
18 PUBLIC HEALTH SERVICE, THE NATIONAL OCEANIC AND ATMOSPHERIC
19 ADMINISTRATION, OR THE COAST AND GEODETIC SURVEY FROM:

20 A. DECEMBER 7, 1941, TO DECEMBER 31, 1946, BOTH
21 INCLUSIVE;

22 B. JUNE 25, 1950, TO JANUARY 31, 1955, BOTH INCLUSIVE; OR

23 C. DECEMBER 22, 1961, TO MAY 7, 1975, BOTH INCLUSIVE.

24 (III) "MILITARY RETIREMENT INCOME" MEANS RETIREMENT
25 INCOME RECEIVED AS A RESULT OF MILITARY SERVICE.

26 (2) [The] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS
27 SUBSECTION, THE subtraction under subsection (a) of this section includes [the first
28 \$2,500 of military retirement income received by an individual during the taxable
29 year, if the individual:

30 (i) is at least 55 years old on the last day of the taxable year; and

31 (ii) was an enlisted member of the military at the time of
32 retirement.

33 (2) The amount of the subtraction under paragraph (1) of this subsection:

1 (i) is reduced by 50% of the amount by which federal adjusted
2 gross income exceeds \$17,500; and

3 (ii) is reduced to zero if federal adjusted gross income exceeds
4 \$22,500] 100% OF MILITARY RETIREMENT INCOME RECEIVED BY AN INDIVIDUAL
5 DURING THE TAXABLE YEAR.

6 (3) FOR A TAXABLE YEAR BEGINNING BEFORE JANUARY 1, 2011, THE
7 FOLLOWING PERCENTAGE OF MILITARY RETIREMENT INCOME RECEIVED BY AN
8 INDIVIDUAL DURING A TAXABLE YEAR IS SUBTRACTED UNDER SUBSECTION (A) OF
9 THIS SECTION:

10 (I) 20% FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,
11 2006, BUT BEFORE JANUARY 1, 2008;

12 (II) 40% FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,
13 2007, BUT BEFORE JANUARY 1, 2009;

14 (III) 60% FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,
15 2008, BUT BEFORE JANUARY 1, 2010; AND

16 (IV) 80% FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,
17 2009, BUT BEFORE JANUARY 1, 2011.

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:

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

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

30 (iii) a rollover individual retirement account;

31 (iv) a simplified employee pension under Internal Revenue Code §
32 408(k); or

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

1 (b) [To] SUBJECT TO SUBSECTION (D) OF THIS SECTION, TO determine
2 Maryland adjusted gross income, if, on the last day of the taxable year, a resident is at
3 least 65 years old or is totally disabled or the resident's spouse is totally disabled, an
4 amount is subtracted from federal adjusted gross income equal to the lesser of:

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

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

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

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

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

15 (D) MILITARY RETIREMENT INCOME THAT IS INCLUDED IN THE
16 SUBTRACTION UNDER § 10-207(Q) OF THIS SUBTITLE MAY NOT BE TAKEN INTO
17 ACCOUNT FOR PURPOSES OF THE SUBTRACTION UNDER THIS SECTION.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 July 1, 2006, and shall be applicable to all taxable years beginning after December 31,
20 2006.