

(PRE-FILED)

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Assigned to: Ways and Means

Committee Report: Favorable with amendments
House action: Adopted
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CHAPTER _____

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; providing a certain subtraction
11 modification under the Maryland income tax under certain circumstances for
12 certain retirement income attributable to a resident's employment as a law
13 enforcement officer or the individual's service as fire, rescue, or emergency
14 services personnel; reducing the amount of certain subtraction modifications
15 allowed if certain income of the individual exceeds certain amounts; providing

1 that retirement income that is included in the subtraction modification may not
 2 be taken into account for purposes of a certain subtraction modification allowed
 3 under the income tax for certain individuals who are at least a certain age or
 4 who are disabled or have disabled spouses; providing for the application of this
 5 Act; and generally relating to the Maryland income taxation of certain
 6 retirement income.

7 BY repealing and reenacting, without amendments,
 8 Article - Tax - General
 9 Section 10-207(a)
 10 Annotated Code of Maryland
 11 (2004 Replacement Volume and 2005 Supplement)

12 BY repealing and reenacting, with amendments,
 13 Article - Tax - General
 14 Section 10-207(q) and 10-209
 15 Annotated Code of Maryland
 16 (2004 Replacement Volume and 2005 Supplement)

17 BY adding to
 18 Article - Tax - General
 19 Section 10-207(q-1)
 20 Annotated Code of Maryland
 21 (2004 Replacement Volume and 2005 Supplement)

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

24 **Article - Tax - General**

25 10-207.

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

29 (q) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
 30 MEANINGS INDICATED.

31 (II) "ACTIVE MILITARY SERVICE" MEANS:

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

35 2. MEMBERSHIP IN A RESERVE COMPONENT OF THE ARMED
 36 FORCES OF THE UNITED STATES;

1 3. MEMBERSHIP IN AN ACTIVE COMPONENT OF THE ARMED
2 FORCES OF THE UNITED STATES;

3 4. MEMBERSHIP IN THE MARYLAND NATIONAL GUARD; OR

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

7 A. ~~DECEMBER 7, 1941, TO DECEMBER 31, 1946, BOTH~~
8 ~~INCLUSIVE;~~

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

10 C. ~~DECEMBER 22, 1961, TO MAY 7, 1975, BOTH INCLUSIVE~~
11 ~~WITH RESPECT TO A PERSON SEPARATED FROM EMPLOYMENT ON OR AFTER JULY 1,~~
12 ~~1991, ACTIVE DUTY WITH THE COMMISSIONED CORPS OF THE PUBLIC HEALTH~~
13 ~~SERVICE, THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, OR THE~~
14 ~~COAST AND GEODETIC SURVEY.~~

15 (III) "ACTIVE MILITARY RETIREMENT INCOME" MEANS RETIREMENT
16 INCOME RECEIVED AS A RESULT OF MILITARY SERVICE.

17 (2) [The] ~~EXCEPT AS PROVIDED IN~~ SUBJECT TO PARAGRAPH (3) OF THIS
18 SUBSECTION, THE subtraction under subsection (a) of this section includes ~~the first~~
19 ~~\$2,500 of military retirement income received by an individual during the taxable~~
20 ~~year, if the individual:~~

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

22 (ii) ~~was an enlisted member of the military at the time of~~
23 ~~retirement~~ THE FIRST \$10,000 OF MILITARY RETIREMENT INCOME RECEIVED BY AN
24 INDIVIDUAL DURING THE TAXABLE YEAR, IF THE INDIVIDUAL IS AT LEAST 55 YEARS
25 OLD ON THE LAST DAY OF THE TAXABLE YEAR.

26 (2) (3) The amount of the subtraction under paragraph (4) (2) of this
27 subsection:

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

30 (ii) ~~is reduced to zero if federal adjusted gross income exceeds~~
31 ~~\$22,500~~ 100% OF MILITARY RETIREMENT INCOME RECEIVED BY AN INDIVIDUAL
32 DURING THE TAXABLE YEAR.

33 (3) ~~FOR A TAXABLE YEAR BEGINNING BEFORE JANUARY 1, 2011, THE~~
34 ~~FOLLOWING PERCENTAGE OF MILITARY RETIREMENT INCOME RECEIVED BY AN~~
35 ~~INDIVIDUAL DURING A TAXABLE YEAR IS SUBTRACTED UNDER SUBSECTION (A) OF~~
36 ~~THIS SECTION:~~

1 ~~(I) 20% FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,~~
2 ~~2006, BUT BEFORE JANUARY 1, 2008;~~

3 ~~(II) 40% FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,~~
4 ~~2007, BUT BEFORE JANUARY 1, 2009;~~

5 ~~(III) 60% FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,~~
6 ~~2008, BUT BEFORE JANUARY 1, 2010; AND~~

7 ~~(IV) 80% FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,~~
8 ~~2009, BUT BEFORE JANUARY 1, 2011~~ THE AMOUNT BY WHICH THE INDIVIDUAL'S
9 FEDERAL ADJUSTED GROSS INCOME, LESS THE AMOUNT OF SOCIAL SECURITY
10 BENEFITS INCLUDED IN FEDERAL ADJUSTED GROSS INCOME UNDER § 86 OF THE
11 INTERNAL REVENUE CODE, EXCEEDS:

12 (I) \$75,000 FOR AN INDIVIDUAL OTHER THAN ONE DESCRIBED IN
13 ITEM (II) OR (III) OF THIS PARAGRAPH;

14 (II) \$100,000 FOR A MARRIED COUPLE FILING A JOINT RETURN OR
15 FOR AN INDIVIDUAL DESCRIBED IN § 2 OF THE INTERNAL REVENUE CODE AS A HEAD
16 OF HOUSEHOLD OR AS A SURVIVING SPOUSE; OR

17 (III) FOR A MARRIED COUPLE FILING SEPARATELY, \$50,000 FOR
18 EACH SPOUSE.

19 (Q-1) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE
20 SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES THE FIRST \$7,500
21 OF RETIREMENT INCOME RECEIVED BY AN INDIVIDUAL DURING THE TAXABLE YEAR
22 THAT IS ATTRIBUTABLE TO THE INDIVIDUAL'S EMPLOYMENT AS A LAW
23 ENFORCEMENT OFFICER OR FIRE, RESCUE, OR EMERGENCY SERVICES PERSONNEL
24 OF THE UNITED STATES, THE STATE, OR A POLITICAL SUBDIVISION OF THE STATE, IF
25 THE INDIVIDUAL IS AT LEAST 55 YEARS OLD ON THE LAST DAY OF THE TAXABLE
26 YEAR.

27 (2) THE AMOUNT OF THE SUBTRACTION UNDER PARAGRAPH (1) OF THIS
28 SUBSECTION IS REDUCED BY THE AMOUNT BY WHICH THE INDIVIDUAL'S FEDERAL
29 ADJUSTED GROSS INCOME, LESS THE AMOUNT OF SOCIAL SECURITY BENEFITS
30 INCLUDED IN FEDERAL ADJUSTED GROSS INCOME UNDER § 86 OF THE INTERNAL
31 REVENUE CODE, EXCEEDS:

32 (I) \$75,000 FOR AN INDIVIDUAL OTHER THAN ONE DESCRIBED IN
33 ITEM (II) OR (III) OF THIS PARAGRAPH;

34 (II) \$100,000 FOR A MARRIED COUPLE FILING A JOINT RETURN OR
35 FOR AN INDIVIDUAL DESCRIBED IN § 2 OF THE INTERNAL REVENUE CODE AS A HEAD
36 OF HOUSEHOLD OR AS A SURVIVING SPOUSE; OR

37 (III) FOR A MARRIED COUPLE FILING SEPARATELY, \$50,000 FOR
38 EACH SPOUSE.

1 10-209.

2 (a) In this section:

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

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

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

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

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

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

13 (iii) a rollover individual retirement account;

14 (iv) a simplified employee pension under Internal Revenue Code §
15 408(k); or

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

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

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

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

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

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

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

32 (D) (1) MILITARY RETIREMENT INCOME THAT IS INCLUDED IN THE
33 SUBTRACTION UNDER § 10-207(Q) OF THIS SUBTITLE MAY NOT BE TAKEN INTO
34 ACCOUNT FOR PURPOSES OF THE SUBTRACTION UNDER THIS SECTION.

1 (2) RETIREMENT INCOME OF A LAW ENFORCEMENT OFFICER OR OF
2 FIRE, RESCUE, OR EMERGENCY SERVICES PERSONNEL THAT IS INCLUDED IN THE
3 SUBTRACTION UNDER § 10-207(Q-1) OF THIS SUBTITLE MAY NOT BE TAKEN INTO
4 ACCOUNT FOR PURPOSES OF THE SUBTRACTION UNDER THIS SECTION.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 July 1, 2006, and shall be applicable to all taxable years beginning after December 31,
7 ~~2006~~ 2005.