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By: **The Speaker (By Request - Administration) and Delegates Aumann, Bartlett, Benson, Bohanan, Boschert, Boteler, Bozman, Bromwell, Cadden, Cluster, Conroy, Conway, Cryor, C. Davis, DeBoy, Donoghue, Dumais, Dwyer, Eckardt, Edwards, Elliott, Elmore, Frank, Gilleland, Glassman, Haddaway, Hogan, Howard, Hubbard, Impallaria, James, Jameson, Jennings, Kach, Kelly, Kohl, Krebs, Kullen, Leopold, Levy, Love, Malone, Mayer, McComas, McConkey, McDonough, McHale, McKee, McMillan, Miller, Minnick, Moe, Myers, Nathan-Pulliam, O'Donnell, Parrott, Petzold, Proctor, Shank, Shewell, Smigiel, Sophocleus, Sossi, Stocksdale, Stull, Taylor, Vallario, Weir, Weldon, Wood, and Zirkin**

Introduced and read first time: January 25, 2006

Assigned to: Ways and Means

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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)

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

3 **Article - Tax - General**

4 10-207.

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

8 (q) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE  
9 MEANINGS INDICATED.

10 (II) "ACTIVE MILITARY SERVICE" MEANS:

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

14 2. MEMBERSHIP IN A RESERVE COMPONENT OF THE ARMED  
15 FORCES OF THE UNITED STATES;

16 3. MEMBERSHIP IN THE ACTIVE COMPONENT OF THE  
17 ARMED FORCES OF THE UNITED STATES;

18 4. MEMBERSHIP IN THE MARYLAND NATIONAL GUARD; OR

19 5. WITH RESPECT TO A PERSON SEPARATED FROM  
20 EMPLOYMENT ON OR AFTER JULY 1, 1991, ACTIVE DUTY WITH THE COMMISSIONED  
21 CORPS OF THE PUBLIC HEALTH SERVICE, THE NATIONAL OCEANIC AND  
22 ATMOSPHERIC ADMINISTRATION, OR THE COAST AND GEODETIC SURVEY.

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

25 [(1)] (2) [The] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS  
26 SUBSECTION, THE subtraction under subsection (a) of this section includes [the first  
27 \$2,500 of military retirement income received by an individual during the taxable  
28 year, if the individual:

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

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

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

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

1 (ii) is reduced to zero if federal adjusted gross income exceeds  
2 \$22,500] 100% OF MILITARY RETIREMENT INCOME RECEIVED BY AN INDIVIDUAL  
3 DURING THE TAXABLE YEAR.

4 (3) FOR A TAXABLE YEAR BEGINNING BEFORE JANUARY 1, 2010, THE  
5 FOLLOWING PERCENTAGE OF MILITARY RETIREMENT INCOME RECEIVED DURING A  
6 TAXABLE YEAR BY AN INDIVIDUAL, WHO MEETS THE REQUIREMENTS OF  
7 PARAGRAPH (1) OF THIS SUBSECTION, IS SUBTRACTED UNDER SUBSECTION (A) OF  
8 THIS SECTION:

9 (I) 20% FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,  
10 2005, BUT BEFORE JANUARY 1, 2007;

11 (II) 40% FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,  
12 2006, BUT BEFORE JANUARY 1, 2008;

13 (III) 60% FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,  
14 2007, BUT BEFORE JANUARY 1, 2009; AND

15 (IV) 80% FOR A TAXABLE YEAR ENDING AFTER DECEMBER 31, 2008,  
16 BUT BEFORE JANUARY 1, 2010.

17 10-209.

18 (a) In this section:

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

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

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

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

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

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

29 (iii) a rollover individual retirement account;

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

32 (v) an ineligible deferred compensation plan under § 457(f) of the  
33 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 2005.