

HOUSE BILL 158

Q3
HB 999/08 – W&M

9lr0900

By: **Delegates Krebs, Aumann, Bates, Boteler, Dwyer, Eckardt, Frank, George, Haddaway, Howard, Miller, Norman, Riley, Shewell, Sossi, Stifler, and Stocksdale**

Introduced and read first time: January 26, 2009
Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Fairness in Taxation for Retirees Act**

3 FOR the purpose of including income from certain retirement plans within a certain
4 subtraction modification allowed under the Maryland income tax for certain
5 individuals who are at least a certain age or who are disabled or whose spouse is
6 disabled; providing for the application of this Act; and generally relating to a
7 subtraction modification under the Maryland income tax for certain individuals
8 for certain retirement income.

9 BY repealing and reenacting, with amendments,
10 Article – Tax – General
11 Section 10–209
12 Annotated Code of Maryland
13 (2004 Replacement Volume and 2008 Supplement)

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

16 **Article – Tax – General**

17 10–209.

18 (a) In this section[:

19 (1) “employee], “**QUALIFIED** retirement [system”] **PLAN**” means [a
20 plan]:

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (ii)] (1) A RETIREMENT PLAN qualified under § 401(a), § 403, or
2 § 457(b) of the Internal Revenue Code; [and]

3 [(2) “employee retirement system” does not include:

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

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

8 (iii) a rollover individual retirement account;

9 (iv) a simplified employee pension under Internal Revenue Code
10 § 408(k); or

11 (v) an ineligible deferred compensation plan under § 457(f) of
12 the Internal Revenue Code.]

13 (2) AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY UNDER §
14 408 OF THE INTERNAL REVENUE CODE;

15 (3) A ROTH INDIVIDUAL RETIREMENT ACCOUNT UNDER § 408A
16 OF THE INTERNAL REVENUE CODE;

17 (4) A SIMPLIFIED EMPLOYEE PENSION UNDER § 408(K) OF THE
18 INTERNAL REVENUE CODE; OR

19 (5) AN INELIGIBLE DEFERRED COMPENSATION PLAN UNDER §
20 457(F) OF THE INTERNAL REVENUE CODE.

21 (b) Subject to subsection (d) of this section, to determine Maryland adjusted
22 gross income, if, on the last day of the taxable year, a resident is at least 65 years old
23 or is totally disabled or the resident’s spouse is totally disabled, an amount is
24 subtracted from federal adjusted gross income equal to the lesser of:

25 (1) [the cumulative or total annuity, pension, or endowment income
26 from an employee] **THE TOTAL INCOME FROM A QUALIFIED** retirement [system]
27 **PLAN** included in federal adjusted gross income **FOR THE TAXABLE YEAR**; or

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

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

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

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

6 (d) Military retirement income that is included in the subtraction under §
7 10-207(q) of this subtitle may not be taken into account for purposes of the subtraction
8 under this section.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 July 1, 2009, and shall be applicable to all taxable years beginning after December 31,
11 2008.