

# HOUSE BILL 190

Q3  
SB 759/08 – B&T

9lr1936  
CF SB 115

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By: **Delegate Stifler**

Introduced and read first time: January 26, 2009

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Subtraction Modification for Retirement Income – Rollovers to**  
3 **Individual Retirement Accounts**

4 FOR the purpose of including income from certain retirement plans within a certain  
5 subtraction modification allowed under the Maryland income tax for certain  
6 retirement income under certain circumstances; providing for the application of  
7 this Act; and generally relating to an income tax subtraction modification for  
8 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 retirement system” means a plan:

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

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

2 (i) **EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS**  
3 **SECTION**, an individual retirement account or annuity under § 408 of the Internal  
4 Revenue Code;

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

7 (iii) [a rollover individual retirement account;

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

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

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

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

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

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

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

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

27 (d) Military retirement income that is included in the subtraction under §  
28 10–207(q) of this subtitle may not be taken into account for purposes of the subtraction  
29 under this section.

30 **(E) FOR PURPOSES OF THIS SECTION, A DISTRIBUTION FROM A**  
31 **ROLLOVER INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY ESTABLISHED**  
32 **UNDER § 408 OF THE INTERNAL REVENUE CODE SHALL BE TREATED AS**  
33 **INCOME FROM AN EMPLOYEE RETIREMENT SYSTEM IF CONTRIBUTIONS TO THE**

1 **ROLLOVER INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY CONSIST ENTIRELY**  
2 **OF THE TAX-FREE ROLLOVER OF DISTRIBUTIONS FROM AN EMPLOYEE**  
3 **RETIREMENT SYSTEM.**

4           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 July 1, 2009, and shall be applicable to all taxable years beginning after December 31,  
6 2008.