

Department of Legislative Services
 Maryland General Assembly
 2009 Session

FISCAL AND POLICY NOTE
Revised

House Bill 190 (Delegate Stifler)
 Ways and Means

Income Tax - Subtraction Modification for Retirement Income - Rollovers to Individual Retirement Accounts

This bill allows income from a rollover individual retirement account (IRA) or annuity under Section 408 of the Internal Revenue Code (IRC) to be included within the subtraction modification allowed for retirement income from an employee retirement system if the contributions to the IRA or annuity consist entirely of the tax-free rollover of distributions from an employee retirement system.

The bill takes effect July 1, 2009 and applies to tax year 2009 and beyond.

Fiscal Summary

State Effect: The extent of any general fund revenue decrease depends on several unknown factors, including the number and amount distributed each year from such nontaxable rollovers and the amount of Social Security received by the individuals utilizing these rollovers. Based on tax year 2006 data, general fund expenditures may decrease by \$3.0 million in FY 2010. Expenditures are not affected.

| (in dollars) | FY 2010 | FY 2011 | FY 2012 | FY 2013 | FY 2014 |
|--------------|---------------|---------------|---------------|---------------|---------------|
| GF Revenue | (\$3,034,400) | (\$3,095,100) | (\$3,157,000) | (\$3,220,100) | (\$3,350,200) |
| Expenditure | 0 | 0 | 0 | 0 | 0 |
| Net Effect | (\$3,034,400) | (\$3,095,100) | (\$3,157,000) | (\$3,220,100) | (\$3,350,200) |

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local government revenues may decrease by \$1.9 million beginning in FY 2010 as a result of additional subtraction modifications. Expenditures are not affected.

Small Business Effect: None.

Analysis

Background: Maryland law provides a pension exclusion (in the form of a subtraction modification) for individuals who are at least 65 years old or who are totally disabled. Under this subtraction modification, up to a specified maximum amount of taxable pension income (\$24,000 for 2008) may be exempt from tax. The maximum exclusion allowed is indexed to the maximum annual benefit payable under the Social Security Act and is reduced by the amount of any Social Security payments received. The pension exclusion has been a part of the Maryland income tax since 1965.

One important feature of the current pension exclusion is that it is limited to income received from an “employee retirement system.” Chapter 524 of 2000 provides a definition of an “employee retirement system” to clarify the types of retirement income that may be included for purposes of calculating the pension exclusion. Eligible employee retirement systems are retirement plans established and maintained by an employer for the benefit of its employees and qualified under sections 401(a), 403, or 457 of the IRC. These include defined benefit and defined contribution pension plans, 401(k) plans, 403(b) plans, and 457(b) plans. However, Individual Retirement Arrangements (IRAs), Keogh plans, and simplified employee pension plans are not considered employee retirement systems.

The “Social Security offset” is the reduction in the maximum pension exclusion allowed under current law by an individual. The Social Security offset was established at the same time as the pension exclusion. Given that Social Security benefits are exempt from Maryland income tax, the offset works to equalize the tax treatment of individuals who receive their retirement benefits from different sources by reducing the amount of the allowable exclusion by the amount of any Social Security benefits received.

Additional Income Tax Treatment for Elderly Individuals

Social Security benefits and benefits received under the Railroad Retirement Act are totally exempt from the Maryland income tax, even though they may be partly taxable for federal income tax purposes. In addition to the special treatment of Social Security and other retirement income, other income tax relief is provided to senior citizens regardless of the source of their income. Each individual age 65 and older is allowed a \$1,000 personal exemption in addition to the regular personal exemption allowed for all individuals; and can earn more income without being required to file taxes.

State Revenue Effect: The actual cost of the bill, which cannot be reliably estimated at this time, depends on the number of eligible rollovers and the amount distributed each year from these eligible rollovers and the amount of Social Security benefits received by these individuals.

However, *for illustrative purposes only*, based on tax year 2006 income tax return data, it is estimated that general fund revenues may decrease by about \$3.0 million in fiscal 2010. Although the pension exclusion is expanded beginning in tax year 2009, it is assumed that most taxpayers will not adjust their estimated payments to reflect the increased subtraction until after July 1, 2010. This estimate is based on the following facts and assumptions:

- for tax year 2006, about 15,500 returns were filed with IRA distributions totaling approximately \$268.7 million but no pension income; the average distribution was \$17,299;
- the maximum pension exclusion was \$24,000 in tax year 2008;
- 50% of IRA distributions are from an account consisted entirely of tax-free rollovers from employee retirement systems; and
- the number of eligible individuals increases by 2% from tax year 2006 to 2009.

The total amount of IRA distributions in 2006 was also decreased to reflect recent negative stock market returns.

Local Revenues: Local government revenues decrease by approximately 3% of the total State subtraction taken in tax year 2009. Based on the estimate above, the revenue decrease may total approximately \$1.9 million in fiscal 2010.

Additional Information

Prior Introductions: SB 759 of 2008, SB 877 of 2007, and SB 466 of 2006 were not reported from the Senate Budget and Taxation Committee. SB 89 of 2003, SB 135 of 2004, and SB 273 of 2005 received unfavorable reports from the Senate Budget and Taxation Committee. HB 1173 was not reported from the House Ways and Means Committee. SB 399 of 2002 passed the General Assembly but was vetoed by the Governor for tax policy reasons. SB 152 of 2001 passed the Senate but was not reported from the House Ways and Means Committee. SB 319 of 2000 was referred to interim study by the Senate Budget and Taxation Committee.

Cross File: SB 115 (Senator Glassman) - Budget and Taxation.

Information Source(s): Comptroller's Office, State Retirement Agency, Maryland Supplemental Retirement Plans, Department of Legislative Services

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