

# HOUSE BILL 58

Q3

8lr1241

(PRE-FILED)

---

By: ~~Delegate Brooks~~ Delegates Brooks, Kaiser, Kelly, Afzali, Ali, D. Barnes, Buckel, Ebersole, Hornberger, C. Howard, Long, Luedtke, Mosby, Patterson, Reilly, Rose, Shoemaker, Tarlau, Turner, Walker, and Wilkins

Requested: November 15, 2017

Introduced and read first time: January 10, 2018

Assigned to: Ways and Means

---

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 13, 2018

---

## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Income Tax – Subtraction Modification – Retirement Income**

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~~, an individual retirement account or a certain annuity within a certain  
7 subtraction modification for certain retirement income under certain circumstances;  
8 repealing a certain obsolete provision relating to a certain retirement plan; providing  
9 for the application of this Act; ~~altering a certain definition~~; and generally relating to  
10 a subtraction modification under the Maryland income tax for certain retirement  
11 income.

12 BY repealing and reenacting, with amendments,

13 Article – Tax – General

14 Section 10–209

15 Annotated Code of Maryland

16 (2016 Replacement Volume and 2017 Supplement)

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

19 **Article – Tax – General**

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 10-209.

2 (a) (1) In this section the following words have the meanings indicated.

3 (2) "Emergency services personnel" means emergency medical technicians  
4 or paramedics.

5 ~~(3) (i) ["Employee"] "QUALIFIED retirement [system]" PLAN" means~~  
6 ~~[a plan]:~~

7 ~~1. established and maintained by an employer for the~~  
8 ~~benefit of its employees; and~~

9 ~~2.] A RETIREMENT PLAN qualified under § 401(a), § 403, or~~  
10 ~~§ 457(b) of the Internal Revenue Code;~~

11 ~~2. AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY~~  
12 ~~UNDER § 408 OF THE INTERNAL REVENUE CODE; OR~~

13 ~~3. A ROLLOVER INDIVIDUAL RETIREMENT ACCOUNT.~~

14 (ii) ~~["Employee"] "QUALIFIED retirement [system]" PLAN" does not~~  
15 ~~include:~~

16 ~~1. [an individual retirement account or annuity under § 408~~  
17 ~~of the Internal Revenue Code;~~

18 ~~2.] a Roth individual retirement account under § 408A of the~~  
19 ~~Internal Revenue Code;~~

20 ~~3. a rollover individual retirement account;~~

21 ~~4.] 2. a simplified employee pension under Internal Revenue~~  
22 ~~Code § 408(k); or~~

23 ~~5.] 3. an ineligible deferred compensation plan under § 457(f) of~~  
24 ~~the Internal Revenue Code.~~

25 (3) (i) "Employee retirement system" means a plan:

26 1. established and maintained by an employer for the benefit  
27 of its employees; and

28 2. qualified under § 401(a), § 403, or § 457(b) of the Internal  
29 Revenue Code.

1 (ii) “Employee retirement system” does not include:

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

5 2. a Roth individual retirement account under § 408A of the  
 6 Internal Revenue Code;

7 3. [a rollover individual retirement account;

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

10 [5.] 4. an ineligible deferred compensation plan under § 457(f) of  
 11 the Internal Revenue Code.

12 (b) Subject to subsections (d) and (e) of this section, to determine Maryland  
 13 adjusted gross income, if, on the last day of the taxable year, a resident is at least 65 years  
 14 old or is totally disabled or the resident’s spouse is totally disabled, or the resident is at  
 15 least 55 years old and is a retired law enforcement officer or fire, rescue, or emergency  
 16 services personnel of the United States, the State, or a political subdivision of the State, an  
 17 amount is subtracted from federal adjusted gross income equal to the lesser of:

18 (1) the cumulative or total annuity, pension, or endowment income from  
 19 ~~[an employee] A-QUALIFIED~~ retirement ~~[system] PLAN~~ included in federal adjusted gross  
 20 income; or

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

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

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

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

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

31 (e) In the case of a retired law enforcement officer or fire, rescue, or emergency  
 32 services personnel of the United States, the State, or a political subdivision of the State,

1 the amount included under subsection (b)(1) of this section is limited to the first \$15,000 of  
2 retirement income that is attributable to the resident’s employment as a law enforcement  
3 officer or fire, rescue, or emergency services personnel of the United States, the State, or a  
4 political subdivision of the State unless:

- 5 (1) the resident is at least 65 years old or is totally disabled; or
- 6 (2) the resident’s spouse is totally disabled.

7 **(F) FOR PURPOSES OF THIS SECTION, A DISTRIBUTION FROM AN**  
8 **INDIVIDUAL RETIREMENT ACCOUNT OR AN ANNUITY ESTABLISHED UNDER § 408 OF**  
9 **THE INTERNAL REVENUE CODE SHALL BE TREATED AS INCOME FROM AN**  
10 **EMPLOYEE RETIREMENT SYSTEM IF CONTRIBUTIONS TO THE INDIVIDUAL**  
11 **RETIREMENT ACCOUNT OR ANNUITY CONSIST ENTIRELY OF THE TAX-FREE**  
12 **ROLLOVER OF DISTRIBUTIONS FROM AN EMPLOYEE RETIREMENT SYSTEM.**

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
14 1, 2018, and shall be applicable to all taxable years beginning after December 31, 2017.

Approved:

\_\_\_\_\_  
Governor.

\_\_\_\_\_  
Speaker of the House of Delegates.

\_\_\_\_\_  
President of the Senate.