

HOUSE BILL 166

Q3
HB 61/20 – W&M

(PRE-FILED)

11r0694

By: **Delegate Grammer**

Requested: September 18, 2020

Introduced and read first time: January 13, 2021

Assigned to: Ways and Means

A BILL ENTITLED

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; altering the maximum amount of the subtraction modification for certain
7 taxable years; repealing a limitation on the maximum amount of the subtraction
8 modification; providing that income included in certain subtraction modifications
9 may not be taken into account for purposes of the subtraction modification for
10 retirement income; altering a certain definition; providing for the application of this
11 Act; and generally relating to a subtraction modification under the Maryland income
12 tax for retirement income.

13 BY repealing and reenacting, with amendments,
14 Article – Tax – General
15 Section 10–209
16 Annotated Code of Maryland
17 (2016 Replacement Volume and 2020 Supplement)

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

20 **Article – Tax – General**

21 10–209.

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

23 (2) “Correctional officer” means an individual who:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (i) was employed in:

- 2 1. a State correctional facility, as defined in § 1–101 of the
3 Correctional Services Article;
- 4 2. a local correctional facility, as defined in § 1–101 of the
5 Correctional Services Article;
- 6 3. a juvenile facility included in § 9–226 of the Human
7 Services Article; or
- 8 4. a facility of the United States that is equivalent to a State
9 or local correctional facility or a juvenile facility included in § 9–226 of the Human Services
10 Article; and

11 (ii) is eligible to receive retirement income attributable to the
12 individual's employment under item (i) of this paragraph.

13 (3) “Emergency services personnel” means emergency medical technicians
14 or paramedics.

15 (4) (i) [“Employee retirement system”] **“QUALIFIED RETIREMENT**
16 **PLAN”** means [a plan]:

17 1. [established and maintained by an employer for the
18 benefit of its employees; and

19 **[2.] 3. A RETIREMENT PLAN** qualified under § 401(a), § 403, or
20 § 457(b) of the Internal Revenue Code[.];

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

22 **1.] 2.** an individual retirement account or annuity under §
23 408 of the Internal Revenue Code;

24 **[2.] 3.** a Roth individual retirement account under § 408A of
25 the Internal Revenue Code;

26 **[3.] 4.** a rollover individual retirement account; **OR**

27 **[4.] 5.** a simplified employee pension under Internal Revenue
28 Code § 408(k)[; or].

29 **[5.] (II) “QUALIFIED RETIREMENT PLAN” DOES NOT**
30 **INCLUDE** an ineligible deferred compensation plan under § 457(f) of the Internal Revenue
31 Code.

1 (b) Subject to subsections (C) AND (d) [and (e)] of this section, to determine
2 Maryland adjusted gross income, if, on the last day of the taxable year, a resident is at least
3 65 years old or is totally disabled or the resident's spouse is totally disabled, or the resident
4 is at least 55 years old and is a retired correctional officer, law enforcement officer, or fire,
5 rescue, or emergency services personnel of the United States, the State, or a political
6 subdivision of the State, an amount is subtracted from federal adjusted gross income equal
7 to [the lesser of]:

8 (1) [the cumulative or total annuity, pension, or endowment income from
9 an employee retirement system] **30% OF THE TOTAL INCOME FROM A QUALIFIED
10 RETIREMENT PLAN** included in federal adjusted gross income **FOR A TAXABLE YEAR
11 BEGINNING AFTER DECEMBER 31, 2020, BUT BEFORE JANUARY 1, 2022;** [or]

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

15 **(2) 60% OF THE TOTAL INCOME FROM A QUALIFIED RETIREMENT
16 PLAN INCLUDED IN FEDERAL ADJUSTED GROSS INCOME FOR A TAXABLE YEAR
17 BEGINNING AFTER DECEMBER 31, 2021, BUT BEFORE JANUARY 1, 2023; AND**

18 **(3) 100% OF THE TOTAL INCOME FROM A QUALIFIED RETIREMENT
19 PLAN INCLUDED IN FEDERAL ADJUSTED GROSS INCOME FOR ANY TAXABLE YEAR
20 BEGINNING AFTER DECEMBER 31, 2022.**

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

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

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

25 (d) Military retirement income that is included in the subtraction under §
26 10-207(q) of this subtitle may not be taken into account for purposes of the subtraction
27 under this section.]

28 **(C) ANY INCOME THAT IS INCLUDED IN THE SUBTRACTIONS UNDER §
29 10-207 OF THIS SUBTITLE MAY NOT BE TAKEN INTO ACCOUNT FOR THE PURPOSES
30 OF THE SUBTRACTION UNDER THIS SECTION.**

31 [(e) (D) In the case of a retired correctional officer, law enforcement officer, or
32 fire, rescue, or emergency services personnel of the United States, the State, or a political
33 subdivision of the State, the amount included under subsection [(b)(1)] (B) of this section
34 is limited to the first \$15,000 of retirement income that is attributable to the resident's

1 employment as a correctional officer, a law enforcement officer, or fire, rescue, or emergency
2 services personnel of the United States, the State, or a political subdivision of the State
3 unless:

4 (1) the resident is at least 65 years old or is totally disabled; or

5 (2) the resident's spouse is totally disabled.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
7 1, 2021, and shall be applicable to all taxable years beginning after December 31, 2020.