

SENATE BILL 370

Q3
SB 488/20 – B&T

1lr1615
CF 1lr1651

By: **Senator Peters**

Introduced and read first time: January 15, 2021

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax Subtraction Modification – Military and Public Safety Retirement**
3 **Income**

4 FOR the purpose of increasing the amount of a subtraction modification under the
5 Maryland income tax for certain military retirement income for individuals who are
6 at least a certain age; increasing the amount of a subtraction modification under the
7 Maryland income tax for certain retirement income attributable to a resident's
8 employment as a correctional officer, a law enforcement officer, or a fire, rescue, or
9 emergency services personnel; altering a certain limitation on the amount of a
10 subtraction modification under the Maryland income tax for certain retirement
11 income attributable to a resident's employment as a correctional officer, a law
12 enforcement officer, or a fire, rescue, or emergency services personnel; defining
13 certain terms; making conforming changes; providing for the application of this Act;
14 providing for a delayed effective date for certain provisions of this Act; and generally
15 relating to subtraction modifications under the Maryland income tax for certain
16 retirement income.

17 BY repealing and reenacting, without amendments,
18 Article – Tax – General
19 Section 10–207(a)
20 Annotated Code of Maryland
21 (2016 Replacement Volume and 2020 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article – Tax – General
24 Section 10–207(q) and 10–209
25 Annotated Code of Maryland
26 (2016 Replacement Volume and 2020 Supplement)

27 BY adding to
28 Article – Tax – General

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 10–207(jj)
 2 Annotated Code of Maryland
 3 (2016 Replacement Volume and 2020 Supplement)

4 BY repealing and reenacting, with amendments,
 5 Article – Tax – General
 6 Section 10–207(jj) and 10–209
 7 Annotated Code of Maryland
 8 (2016 Replacement Volume and 2020 Supplement)
 9 (As enacted by Section 2 of this Act)

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

12 **Article – Tax – General**

13 10–207.

14 (a) To the extent included in federal adjusted gross income, the amounts under
 15 this section are subtracted from the federal adjusted gross income of a resident to determine
 16 Maryland adjusted gross income.

17 (q) (1) (i) In this subsection the following words have the meanings
 18 indicated.

19 (ii) “Military retirement income” means retirement income,
 20 including death benefits, received as a result of military service.

21 (iii) “Military service” means:

22 1. induction into the armed forces of the United States for
 23 training and service under the Selective Training and Service Act of 1940 or a subsequent
 24 act of a similar nature;

25 2. membership in a reserve component of the armed forces of
 26 the United States;

27 3. membership in an active component of the armed forces of
 28 the United States;

29 4. membership in the Maryland National Guard; or

30 5. active duty with the commissioned corps of the Public
 31 Health Service, the National Oceanic and Atmospheric Administration, or the Coast and
 32 Geodetic Survey.

33 (2) The subtraction under subsection (a) of this section includes:

1 (i) if, on the last day of the taxable year, the individual is under the
2 age of 55 years, the first \$5,000 of military retirement income received by an individual
3 during the taxable year; and

4 (ii) if, on the last day of the taxable year, the individual is at least 55
5 years old, the first ~~[\$15,000]~~ **\$20,000** of military retirement income received by an
6 individual during the taxable year.

7 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
8 as follows:

9 **Article – Tax – General**

10 10–207.

11 (a) To the extent included in federal adjusted gross income, the amounts under
12 this section are subtracted from the federal adjusted gross income of a resident to determine
13 Maryland adjusted gross income.

14 **(JJ) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE**
15 **MEANINGS INDICATED.**

16 **(II) “CORRECTIONAL OFFICER” MEANS AN INDIVIDUAL WHO:**

17 **1. WAS EMPLOYED IN:**

18 **A. A STATE CORRECTIONAL FACILITY, AS DEFINED IN §**
19 **1–101 OF THE CORRECTIONAL SERVICES ARTICLE;**

20 **B. A LOCAL CORRECTIONAL FACILITY, AS DEFINED IN §**
21 **1–101 OF THE CORRECTIONAL SERVICES ARTICLE;**

22 **C. A JUVENILE FACILITY INCLUDED IN § 9–226 OF THE**
23 **HUMAN SERVICES ARTICLE; OR**

24 **D. A FACILITY OF THE UNITED STATES THAT IS**
25 **EQUIVALENT TO A STATE OR LOCAL CORRECTIONAL FACILITY OR A JUVENILE**
26 **FACILITY INCLUDED IN § 9–226 OF THE HUMAN SERVICES ARTICLE; AND**

27 **2. IS ELIGIBLE TO RECEIVE RETIREMENT INCOME**
28 **ATTRIBUTABLE TO THE INDIVIDUAL’S EMPLOYMENT UNDER ITEM 1 OF THIS**
29 **SUBPARAGRAPH.**

1 (III) "EMERGENCY SERVICES PERSONNEL" MEANS EMERGENCY
2 MEDICAL TECHNICIANS OR PARAMEDICS.

3 (IV) "EMPLOYEE RETIREMENT SYSTEM" HAS THE MEANING
4 STATED UNDER § 10-209(A) OF THIS SUBTITLE.

5 (V) "PUBLIC SAFETY EMPLOYEE" MEANS AN INDIVIDUAL WHO
6 IS A RETIRED CORRECTIONAL OFFICER, LAW ENFORCEMENT OFFICER, OR FIRE,
7 RESCUE, OR EMERGENCY SERVICES PERSONNEL OF THE UNITED STATES, THE
8 STATE, OR A POLITICAL SUBDIVISION OF THE STATE.

9 (2) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION
10 INCLUDES THE FIRST \$10,000 OF INCOME FROM AN EMPLOYEE RETIREMENT
11 SYSTEM THAT IS ATTRIBUTABLE TO SERVICE AS A PUBLIC SAFETY EMPLOYEE, IF THE
12 INCOME IS RECEIVED BY AN INDIVIDUAL WHO IS AT LEAST 55 YEARS OLD ON THE
13 LAST DAY OF THE TAXABLE YEAR.

14 10-209.

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

16 (2) "Correctional officer" means an individual who:

17 (i) was employed in:

18 1. a State correctional facility, as defined in § 1-101 of the
19 Correctional Services Article;

20 2. a local correctional facility, as defined in § 1-101 of the
21 Correctional Services Article;

22 3. a juvenile facility included in § 9-226 of the Human
23 Services Article; or

24 4. a facility of the United States that is equivalent to a State
25 or local correctional facility or a juvenile facility included in § 9-226 of the Human Services
26 Article; and

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

29 (3) "Emergency services personnel" means emergency medical technicians
30 or paramedics.

31 (4) (i) "Employee retirement system" means a plan:

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

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

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

6 1. an individual retirement account or annuity under § 408
7 of the Internal Revenue Code;

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

10 3. a rollover individual retirement account;

11 4. a simplified employee pension under Internal Revenue
12 Code § 408(k); or

13 5. an ineligible deferred compensation plan under § 457(f) of
14 the Internal Revenue Code.

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

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

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

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

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

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

31 (d) **(1)** Military retirement income that is included in the subtraction under §
32 10–207(q) of this subtitle may not be taken into account for purposes of the subtraction
33 under this section.

1 D. a facility of the United States that is equivalent to a State
2 or local correctional facility or a juvenile facility included in § 9–226 of the Human Services
3 Article; and

4 2. is eligible to receive retirement income attributable to the
5 individual’s employment under item 1 of this subparagraph.

6 (iii) “Emergency services personnel” means emergency medical
7 technicians or paramedics.

8 (iv) “Employee retirement system” has the meaning stated under §
9 10–209(a) of this subtitle.

10 (v) “Public safety employee” means an individual who is a retired
11 correctional officer, law enforcement officer, or fire, rescue, or emergency services personnel
12 of the United States, the State, or a political subdivision of the State.

13 (2) The subtraction under subsection (a) of this section includes the first
14 ~~[\$10,000]~~ **\$20,000** of income from an employee retirement system that is attributable to
15 service as a public safety employee, if the income is received by an individual who is at least
16 55 years old on the last day of the taxable year.

17 10–209.

18 (a) **[(1)]** In this section **[the following words have the meanings indicated.**

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

20 (i) was employed in:

21 1. a State correctional facility, as defined in § 1–101 of the
22 Correctional Services Article;

23 2. a local correctional facility, as defined in § 1–101 of the
24 Correctional Services Article;

25 3. a juvenile facility included in § 9–226 of the Human
26 Services Article; or

27 4. a facility of the United States that is equivalent to a State
28 or local correctional facility or a juvenile facility included in § 9–226 of the Human Services
29 Article; and

30 (ii) is eligible to receive retirement income attributable to the
31 individual’s employment under item (i) of this paragraph.

1 (3) “Emergency services personnel” means emergency medical technicians
2 or paramedics.

3 (4) (i) “Employee”:

4 (1) “EMPLOYEE retirement system” means a plan:

5 [1.] (I) established and maintained by an employer for the
6 benefit of its employees; and

7 [2.] (II) qualified under § 401(a), § 403, or § 457(b) of the
8 Internal Revenue Code[.]; AND

9 [(ii)] (2) [“Employee” “EMPLOYEE retirement system” does not
10 include:

11 [1.] (I) an individual retirement account or annuity under
12 § 408 of the Internal Revenue Code;

13 [2.] (II) a Roth individual retirement account under § 408A
14 of the Internal Revenue Code;

15 [3.] (III) a rollover individual retirement account;

16 [4.] (IV) a simplified employee pension under Internal
17 Revenue Code § 408(k); or

18 [5.] (V) an ineligible deferred compensation plan under §
19 457(f) of the Internal Revenue Code.

20 (b) Subject to [subsections] SUBSECTION (d) [and (e)] of this section, to
21 determine Maryland adjusted gross income, if, on the last day of the taxable year, a resident
22 is at least 65 years old or is totally disabled or the resident’s spouse is totally disabled, [or
23 the resident is at least 55 years old and is a retired correctional officer, law enforcement
24 officer, or fire, rescue, or emergency services personnel of the United States, the State, or a
25 political subdivision of the State,] an amount is subtracted from federal adjusted gross
26 income equal to the lesser of:

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

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

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

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

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

4 (d) (1) Military retirement income that is included in the subtraction under §
5 10–207(q) of this subtitle may not be taken into account for purposes of the subtraction
6 under this section.

7 (2) Public safety employee retirement income that is included in the
8 subtraction under § 10–207(jj) of this subtitle may not be taken into account for purposes
9 of the subtraction under this section.

10 [(e) In the case of a retired correctional officer, law enforcement officer, or fire,
11 rescue, or emergency services personnel of the United States, the State, or a political
12 subdivision of the State, the amount included under subsection (b)(1) of this section is
13 limited to the first \$7,500 of retirement income that is attributable to the resident's
14 employment as a correctional officer, a law enforcement officer, or fire, rescue, or emergency
15 services personnel of the United States, the State, or a political subdivision of the State
16 unless:

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

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

19 SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take
20 effect July 1, 2022, and shall be applicable to all taxable years beginning after December
21 31, 2021, but before January 1, 2023.

22 SECTION 5. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take
23 effect July 1, 2023, and shall be applicable to all taxable years beginning after December
24 31, 2022.

25 SECTION 6. AND BE IT FURTHER ENACTED, That, except as provided in
26 Sections 4 and 5 of this Act, this Act shall take effect July 1, 2021, and shall be applicable
27 to all taxable years beginning after December 31, 2020.