State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-1071/2
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2005 SENATE BILL 60

February 15, 2005 - Introduced by Senators WIRCH, HANSEN, LASSA and ROESSLER, cosponsored by Representatives BOYLE, SHILLING, FREESE, CULLEN, HUBLER, LEHMAN, TOWNSEND, SUDER, HINES, SHERIDAN and GUNDERSON. Referred to Joint Survey Committee on Tax Exemptions.

AN ACT ***to amend*** 71.05 (6) (b) 4.; and ***to create*** 71.05 (1) (ap) and 71.05 (1) (aq) of the statutes; **relating to:** exempting from taxation certain amounts of pension or retirement income received by an individual.

Analysis by the Legislative Reference Bureau

Under current law, the pension benefits of certain public employes are exempt from state taxation. The pensions that are exempt include payments received from the U.S. Civil Service Retirement System, the U.S. Military Employee Retirement System, the Milwaukee city and county retirement systems, the Police Officer's Annuity and Benefit Fund of Milwaukee, the Milwaukee Public School Teachers' Retirement Fund, the Wisconsin State Teachers' Retirement Fund, and the Sheriff's Annuity and Benefit Fund of Milwaukee County. For all of these pension plans, the exemption applies only to persons who were members of or retired from the plans as of December 31, 1963.

To the extent that they are not currently exempt from taxation, current law also exempts all retirement payments received from the U.S. Military Employee Retirement System and all retirement payments received from the federal government related to service with the Coast Guard or the commissioned corps of either the National Oceanic and Atmospheric Administration or the Public Health Service.

This bill exempts from taxation up to $10,000 of pension payments received each year by an individual, if such payments are not already exempt from taxation. The bill also exempts from taxation up to $10,000 of payments or distributions received each year by an individual from an individual retirement account (IRA) or from a Roth IRA, but no individual may claim both exemptions created in the bill in the same taxable year.

To be eligible to claim either exemption, an individual must be at least 55 years old and may not work more than 1,044 hours in the year to which the exemption claim relates.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the ***state*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 71.05 (1) (ap) of the statutes is created to read:

71.05 **(1)** (ap) *Pension income.* Except for a payment that is exempt under par. (a), (am), or (an), or that is exempt as a railroad retirement benefit, up to $10,000 of payments or distributions received each year by an individual from a retirement plan offered by an employer if all of the following apply:

1. The individual does not claim an exemption under par. (aq).

2. The individual does not work more than 1,044 hours during the year to which the exemption claim relates.

3. The individual is at least 55 years of age before the close of the taxable year to which the exemption claim relates.

SECTION 2. 71.05 (1) (aq) of the statutes is created to read:

71.05 **(1)** (aq) *Individual retirement income.* Up to $10,000 of payments or distributions received each year by an individual from an individual retirement account established under 26 USC 408 or 26 USC 408A, if all of the following apply:

1. The individual does not claim an exemption under par. (ap).

2. The individual does not work more than 1,044 hours during the year to which the exemption claim relates.

3. The individual is at least 55 years of age before the close of the taxable year to which the exemption claim relates.

SECTION 2. 71.05 (6) (b) 4. of the statutes is amended to read:

71.05 **(6)** (b) 4. Disability payments other than disability payments that are paid from a retirement plan, the payments from which are exempt under sub. (1) (ap), if the individual either is single or is married and files a joint return, to the extent those payments are excludable under section 105 (d) of the ~~internal revenue code~~ Internal Revenue Code as it existed immediately prior to its repeal in 1983 by section 122 (b) of P.L. 98–21, except that if an individual is divorced during the taxable year that individual may subtract an amount only if that person is disabled and the amount that may be subtracted then is $100 for each week that payments are received or the amount of disability pay reported as income, whichever is less. If the exclusion under this subdivision is claimed on a joint return and only one of the spouses is disabled, the maximum exclusion is $100 for each week that payments are received or the amount of disability pay reported as income, whichever is less.

SECTION 3. Initial applicability.

(1) This act first applies to taxable years beginning on January 1 of the year in which this subsection takes effect, except that if this subsection takes effect after July 31 this act first applies to taxable years beginning on January 1 of the year following the year in which this subsection takes effect.

(END)