

HOUSE BILL 461

Q3
HB 951/21 – W&M

2lr2157
CF SB 130

By: **Delegates Rogers, Bagnall, Brooks, Buckel, Chang, Charles, Chisholm, Crosby, Henson, Howard, Kipke, Lisanti, Luedtke, Munoz, Patterson, Saab, Valentino-Smith, Walker, Washington, and P. Young**

Introduced and read first time: January 21, 2022

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

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

4 FOR the purpose of altering the amount of certain subtraction modifications under the
5 Maryland income tax for individuals who are at least a certain age for certain
6 retirement income received as a result of the individual's military service or
7 attributable to the individual's employment as a correctional officer, a law
8 enforcement officer, or a fire, rescue, or emergency services personnel; and generally
9 relating to subtraction modifications under the Maryland income tax for retirement
10 income.

11 BY repealing and reenacting, without amendments,
12 Article – Tax – General
13 Section 10–207(a)
14 Annotated Code of Maryland
15 (2016 Replacement Volume and 2021 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Tax – General
18 Section 10–207(q) and 10–209
19 Annotated Code of Maryland
20 (2016 Replacement Volume and 2021 Supplement)

21 BY adding to
22 Article – Tax – General
23 Section 10–207(mm)
24 Annotated Code of Maryland
25 (2016 Replacement Volume and 2021 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



BY repealing and reenacting, with amendments,
Article – Tax – General
Section 10–207(mm) and 10–209
Annotated Code of Maryland
(2016 Replacement Volume and 2021 Supplement)
(As enacted by Section 2 of this Act)

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

Article – Tax – General

10–207.

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

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

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

(iii) “Military service” means:

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

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

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

4. membership in the Maryland National Guard; or

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

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

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

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

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

Article – Tax – General

10–207.

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

(MM) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

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

1. WAS EMPLOYED IN:

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

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

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

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

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

(III) “EMERGENCY SERVICES PERSONNEL” MEANS EMERGENCY MEDICAL TECHNICIANS OR PARAMEDICS.

(IV) “EMPLOYEE RETIREMENT SYSTEM” HAS THE MEANING STATED UNDER § 10–209(A) OF THIS SUBTITLE.

(v) “PUBLIC SAFETY EMPLOYEE” MEANS AN INDIVIDUAL WHO IS A RETIRED CORRECTIONAL OFFICER, LAW ENFORCEMENT OFFICER, OR FIRE, RESCUE, OR EMERGENCY SERVICES PERSONNEL OF THE UNITED STATES, THE STATE, OR A POLITICAL SUBDIVISION OF THE STATE.

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

10–209.

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

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

(i) was employed in:

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

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

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

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

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

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

(4) (i) “Employee retirement system” means a plan:

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

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

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

1. an individual retirement account or annuity under § 408 of the Internal Revenue Code;
2. a Roth individual retirement account under § 408A of the Internal Revenue Code;
3. a rollover individual retirement account;
4. a simplified employee pension under Internal Revenue Code § 408(k); or
5. an ineligible deferred compensation plan under § 457(f) of the Internal Revenue Code.

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

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

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

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

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

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

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

(2) PUBLIC SAFETY EMPLOYEE RETIREMENT INCOME THAT IS INCLUDED IN THE SUBTRACTION UNDER § 10–207(MM) OF THIS SUBTITLE MAY NOT BE TAKEN INTO ACCOUNT FOR PURPOSES OF THE SUBTRACTION UNDER THIS SECTION.

(e) In the case of a retired correctional officer, law enforcement officer, or fire, rescue, or emergency services personnel of the United States, the State, or a political subdivision of the State, the amount included under subsection (b)(1) of this section is limited to the first ~~[\$15,000]~~ **\$7,500** of retirement income that is attributable to the resident's employment as a correctional officer, a law enforcement officer, or fire, rescue, or emergency services personnel of the United States, the State, or a political subdivision of the State unless:

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

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

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Tax – General

10–207.

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

(mm) (1) (i) In this subsection the following words have the meanings indicated.

(ii) “Correctional officer” means an individual who:

1. was employed in:

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

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

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

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

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

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

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

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

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

10–209.

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

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

(i) was employed in:

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

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

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

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

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

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

(4) (i) “Employee”:

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

[1.] (I) established and maintained by an employer for the

benefit of its employees; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 under this section.

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

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

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

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

14 SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take
15 effect July 1, 2023, and shall be applicable to all taxable years beginning after December
16 31, 2022, but before January 1, 2024.

17 SECTION 5. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take
18 effect July 1, 2024, and shall be applicable to all taxable years beginning after December
19 31, 2023.

20 SECTION 6. AND BE IT FURTHER ENACTED, That, except as provided in
21 Sections 4 and 5 of this Act, this Act shall take effect July 1, 2022, and shall be applicable
22 to all taxable years beginning after December 31, 2021.