

Chapter 4

(Senate Bill 405)

AN ACT concerning

Retirement Income Tax – Retirement Income Subtraction Modifications and Senior Credit
(Retirement Tax Elimination Act of ~~2022~~ 2022)

FOR the purpose of allowing a subtraction modification under the Maryland income tax for individuals who are at least a certain age for certain retirement income attributable to the individual’s employment as a public safety employee; providing that retirement income of public safety employees that is included in the subtraction allowed under this Act may not be taken into account for purposes of a certain subtraction modification under the Maryland income tax for certain retirement income; allowing, subject to certain limitations, certain individuals a subtraction modification under the Maryland income tax for a certain amount of income; prohibiting an individual who includes income under the subtraction modification from including income under a certain subtraction modification for certain retirement income; and generally relating to a subtraction modification under the Maryland income tax providing a tax credit against the Maryland income tax for certain residents who are at least a certain age; and generally relating to subtraction modifications under the Maryland income tax for retirement income and an income tax credit for seniors.

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

~~BY repealing and reenacting, without amendments,~~
~~Article – Tax – General~~
~~Section 10-207(a)~~
~~Annotated Code of Maryland~~
~~(2016 Replacement Volume and 2021 Supplement)~~

BY adding to
Article – Tax – General
Section 10-207(mm)
Annotated Code of Maryland
(2016 Replacement Volume and 2021 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Article – Tax – General~~
~~Section 10-209(d)~~
~~Annotated Code of Maryland~~

~~(2016 Replacement Volume and 2021 Supplement)~~

BY adding to

Article – Tax – General

Section 10-207(mm) and 10-754

Annotated Code of Maryland

(2016 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 10-209

Annotated Code of Maryland

(2016 Replacement Volume and 2021 Supplement)

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.

(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 \$15,000 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”:

(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 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 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.]

~~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) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES ANY INCOME OF AN INDIVIDUAL IF, ON THE LAST DAY OF THE TAXABLE YEAR, THE INDIVIDUAL:~~

~~(I) IS RECEIVING OLD AGE OR SURVIVOR BENEFITS UNDER THE SOCIAL SECURITY ACT; OR~~

~~(II) 1. IS AT LEAST 65 YEARS OLD; AND~~

~~2. IS NOT EMPLOYED FULL TIME.~~

~~(2) INCOME THAT IS OTHERWISE INCLUDED IN A SUBTRACTION AUTHORIZED UNDER THIS SUBTITLE MAY NOT BE INCLUDED IN THE SUBTRACTION AUTHORIZED UNDER THIS SUBSECTION.~~

~~(3) (i) THE SUBTRACTION UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT EXCEED:~~

~~1. FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2021, BUT BEFORE JANUARY 1, 2023, \$10,000;~~

~~2. FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2022, BUT BEFORE JANUARY 1, 2024, \$20,000;~~

~~3. FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2023, BUT BEFORE JANUARY 1, 2025, \$30,000;~~

~~4. FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2024, BUT BEFORE JANUARY 1, 2026, \$40,000; AND~~

~~5. FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2025, BUT BEFORE JANUARY 1, 2027, \$50,000.~~

~~(ii) FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2026, THE SUBTRACTION UNDER PARAGRAPH (1) OF THIS SUBSECTION INCLUDES ALL INCOME OF THE INDIVIDUAL.~~

~~(4) THE COMPTROLLER SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SUBSECTION.~~

~~10-209.~~

~~(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) 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.~~

10-754.

(A) IN THIS SECTION, "ELIGIBLE TAXPAYER" MEANS A RESIDENT WHO, ON THE LAST DAY OF THE TAXABLE YEAR, IS AT LEAST 65 YEARS OLD.

(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION AND SUBJECT TO SUBSECTION (D) OF THIS SECTION, AN ELIGIBLE TAXPAYER MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN AN AMOUNT EQUAL TO:

(1) \$1,000 FOR AN ELIGIBLE TAXPAYER, OTHER THAN AN INDIVIDUAL DESCRIBED UNDER ITEM (2) OF THIS SUBSECTION, WHOSE FEDERAL ADJUSTED GROSS INCOME DOES NOT EXCEED \$100,000; OR

(2) FOR SPOUSES FILING A JOINT RETURN OR FOR A SURVIVING SPOUSE OR HEAD OF HOUSEHOLD AS DEFINED IN § 2 OF THE INTERNAL REVENUE CODE WHOSE FEDERAL ADJUSTED GROSS INCOME DOES NOT EXCEED \$150,000:

(I) EXCEPT AS PROVIDED IN ITEM (II) OF THIS ITEM, \$1,750; OR

(II) IF ONLY ONE OF THE INDIVIDUALS FILING THE JOINT RETURN IS AN ELIGIBLE TAXPAYER, \$1,000.

(C) FOR A TAXABLE YEAR IN WHICH THE SEPTEMBER GENERAL FUND ESTIMATE FOR THE CURRENT FISCAL YEAR IN THE SEPTEMBER BOARD OF REVENUE ESTIMATES REPORT ISSUED DURING THE TAXABLE YEAR IS MORE THAN 7.5% BELOW THE MARCH GENERAL FUND ESTIMATE FOR THE CURRENT FISCAL YEAR IN THE MARCH BOARD OF REVENUE ESTIMATES REPORT ISSUED IN THE TAXABLE YEAR, THE AMOUNT OF THE CREDIT ALLOWED UNDER SUBSECTION (B) OF THIS SECTION IS LIMITED TO:

(1) \$500 FOR AN ELIGIBLE TAXPAYER, OTHER THAN AN INDIVIDUAL DESCRIBED UNDER ITEM (2) OF THIS SUBSECTION, WHOSE FEDERAL ADJUSTED GROSS INCOME IS AT LEAST \$50,000 BUT DOES NOT EXCEED \$100,000; OR

(2) FOR SPOUSES FILING A JOINT RETURN OR FOR A SURVIVING SPOUSE OR HEAD OF HOUSEHOLD AS DEFINED IN § 2 OF THE INTERNAL REVENUE CODE WHOSE FEDERAL ADJUSTED GROSS INCOME IS AT LEAST \$100,000 BUT DOES NOT EXCEED \$150,000:

(I) EXCEPT AS PROVIDED IN ITEM (II) OF THIS ITEM, \$875; OR

(II) IF ONLY ONE OF THE INDIVIDUALS FILING THE JOINT RETURN IS AN ELIGIBLE TAXPAYER, \$500.

(D) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, THE UNUSED AMOUNT OF THE CREDIT MAY NOT BE CARRIED OVER TO ANY OTHER TAXABLE YEAR.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2022, and shall be applicable to all taxable years beginning after December 31, 2021.

Approved by the Governor, April 1, 2022.