



2023 ASSEMBLY BILL 1021

January 29, 2024 - Introduced by Representatives STEFFEN, KITCHENS, ALLEN, ARMSTRONG, AUGUST, BEHNKE, BINSFELD, BORN, BRANDTJEN, DITTRICH, DONOVAN, EDMING, GOEBEN, GREEN, GUNDRUM, HURD, KATSMA, KRUG, KURTZ, MACCO, MAGNIFICI, MAXEY, MELOTIK, MOSES, MURPHY, MURSAU, MYERS, NEDWESKI, O'CONNOR, OLDENBURG, PENTERMAN, PETRYK, PLUMER, RETTINGER, SCHMIDT, SCHRAA, SCHUTT, SNYDER, SORTWELL, SPIROS, TRANEL, WICHGERS, WITKE and SWEARINGEN, cosponsored by Senators CABRAL-GUEVARA, WIMBERGER, BALLWEG, BRADLEY, JAGLER, FELZKOWSKI, FEYEN, MARKLEIN, NASS, QUINN, STROEBEL, TESTIN, WANGGAARD and TOMCZYK. Referred to Joint Committee on Finance. Referred to Joint Survey Committee on Tax Exemptions.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to amend** 71.05 (1) (am), 71.05 (1) (an), 71.05 (6) (b) 4. (intro.), 71.05 (6)
2 (b) 54. (intro.) and 71.83 (1) (a) 6.; and **to create** 71.05 (6) (b) 54m. and 71.05
3 (6) (b) 54mn. of the statutes; **relating to:** increasing and expanding the
4 retirement income subtraction.

Analysis by the Legislative Reference Bureau

This bill increases and expands the individual state income tax subtraction for payments or distributions received from qualified retirement plans under the Internal Revenue Code or from certain individual retirement accounts. Under the bill, beginning in tax year 2024, up to \$75,000 of payments or distributions received from qualified retirement plans or certain individual retirement accounts may be subtracted annually from an individual's taxable income, if the individual is at least 65 years of age. If the individual and individual's spouse are both at least 65 years of age, the sum of the amount that the couple may subtract annually from their combined taxable income may not exceed \$150,000.

Under current law, up to \$5,000 of payments or distributions received by certain individuals from qualified retirement plans or from certain individual retirement accounts may be subtracted. To be eligible, the individual must be at least 65 years old and have federal adjusted gross income under \$15,000, or under \$30,000 if married.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

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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:

1 **SECTION 1.** 71.05 (1) (am) of the statutes is amended to read:

2 71.05 (1) (am) *Military retirement systems.* All retirement payments received
3 from the U.S. military employee retirement system, to the extent that such payments
4 are not exempt under par. (a) ~~or sub. (6) (b) 54.~~

5 **SECTION 2.** 71.05 (1) (an) of the statutes is amended to read:

6 71.05 (1) (an) *Uniformed services retirement benefits.* All retirement payments
7 received from the U.S. government that relate to service with the coast guard, the
8 commissioned corps of the national oceanic and atmospheric administration, or the
9 commissioned corps of the public health service, to the extent that such payments are
10 not exempt under par. (a) or (am) ~~or sub. (6) (b) 54.~~

11 **SECTION 3.** 71.05 (6) (b) 4. (intro.) of the statutes is amended to read:

12 71.05 (6) (b) 4. (intro.) Disability payments other than disability payments that
13 are paid from a retirement plan, the payments from which are exempt under subd.
14 54. and sub. (1) (am) and (an), if the individual either is single or is married and files
15 a joint return and is under 65 years of age before the close of the taxable year to which
16 the subtraction relates, retired on disability, and, when the individual retired, was
17 permanently and totally disabled. In this subdivision, “permanently and totally
18 disabled” means an individual who is unable to engage in any substantial gainful
19 activity by reason of any medically determinable physical or mental impairment that
20 can be expected to result in death or which has lasted or can be expected to last for
21 a continuous period of not less than 12 months. An individual shall not be considered

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1 permanently and totally disabled for purposes of this subdivision unless proof is
2 furnished in such form and manner, and at such times, as prescribed by the
3 department. The exclusion under this subdivision shall be determined as follows:

4 **SECTION 4.** 71.05 (6) (b) 54. (intro.) of the statutes is amended to read:

5 71.05 (6) (b) 54. (intro.) Except for a payment that is exempt under sub. (1) (a),
6 (am), or (an), or that is exempt as a railroad retirement benefit, and except as
7 provided under subs. 54m. and 54mn., for taxable years beginning after December
8 31, 2020, up to \$5,000 of payments or distributions received each year by an
9 individual from a qualified retirement plan under the Internal Revenue Code or from
10 an individual retirement account established under 26 USC 408, if all of the
11 following conditions apply:

12 **SECTION 5.** 71.05 (6) (b) 54m. of the statutes is created to read:

13 71.05 (6) (b) 54m. a. Except for a payment that is exempt under sub. (1) (a),
14 (am), or (an), or that is exempt as a railroad retirement benefit, and except as
15 provided under subd. 54mn., for taxable years beginning after December 31, 2023,
16 the amount, up to the limit specified in subd. 54m. b., c., or d., whichever is
17 applicable, of the payments or distributions received each year from a qualified
18 retirement plan under the Internal Revenue Code or from an individual retirement
19 account established under 26 USC 408.

20 b. If the individual is at least 65 years of age before the close of the taxable year
21 to which the subtraction relates, the amount claimed by the individual under this
22 subdivision may not exceed \$75,000 for that taxable year.

23 c. If the individual is married and is a joint filer, and both spouses are at least
24 65 years of age before the close of the taxable year to which the subtraction relates,

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1 the total amount claimed by the spouses under this subdivision may not exceed
2 \$150,000 for that taxable year.

3 d. If the individual is married and files a separate return and is at least 65 years
4 of age before the close of the taxable year to which the subtraction relates, the
5 amount claimed by each spouse as a subtraction under this subdivision may not
6 exceed \$75,000 for that taxable year.

7 e. The individual has not claimed any credit listed under s. 71.10 (4) for the
8 same taxable year for which the individual claimed the subtraction under this
9 subdivision.

10 **SECTION 6.** 71.05 (6) (b) 54mn. of the statutes is created to read:

11 71.05 (6) (b) 54mn. For taxable years beginning after December 31, 2023, for
12 an individual who is a part-year resident of this state, the amount that is calculated
13 by multiplying the applicable amount under subd. 54m. b., c., or d. by a fraction the
14 numerator of which is the individual's wages, salary, tips, unearned income, and net
15 earnings from a trade or business that are taxable by this state and the denominator
16 of which is the individual's total wages, salary, tips, unearned income, and net
17 earnings from a trade or business. A nonresident of this state is not eligible to claim
18 the subtraction under subd. 54m.

19 **SECTION 7.** 71.83 (1) (a) 6. of the statutes is amended to read:

20 71.83 (1) (a) 6. 'Retirement plans.' Any natural person who is liable for a
21 penalty for federal income tax purposes under section 72 (m) (5), (q), (t), and (v), 4973,
22 4974, 4975, or 4980A of the Internal Revenue Code is liable for 33 percent of the
23 federal penalty unless the income received is exempt from taxation under s. 71.05
24 (1) (a) or (6) (b) 54., 54m., or 54mn. The penalties provided under this subdivision

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1 shall be assessed, levied, and collected in the same manner as income or franchise
2 taxes.

3 (END)