State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-3823/2
JK:skw

2023 ASSEMBLY BILL 384

August 11, 2023 - Introduced by Representatives STEFFEN, MYERS, ALLEN, ARMSTRONG, BEHNKE, BINSFELD, BRANDTJEN, DONOVAN, DUCHOW, EDMING, GOEBEN, GREEN, GUNDRUM, GUSTAFSON, KITCHENS, MACCO, MAGNAFICI, MAXEY, MURSAU, O'CONNOR, ORTIZ-VELEZ, ROZAR, SCHMIDT, SCHRAA, TITTL, WICHGERS, WITTKE, MURPHY and RETTINGER, cosponsored by Senators CABRAL-GUEVARA, WANGGAARD, TAYLOR and QUINN. Referred to Committee on Ways and Means.

AUTHORS SUBJECT TO CHANGE

AN ACT ***to amend*** 71.05 (1) (am), 71.05 (1) (an), 71.05 (6) (b) 4. (intro.), 71.05 (6) (b) 54. (intro.) and 71.83 (1) (a) 6.; and ***to create*** 71.05 (6) (b) 54m. and 71.05 (6) (b) 54mn. of the statutes; **relating to:** an increase and expansion of the 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 $100,000 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 67 years of age. If the individual and individual's spouse are both at least 67 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.

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) (am) of the statutes is amended to read:

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

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

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

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

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

An individual shall not be considered permanently and totally disabled for purposes of this subdivision unless proof is furnished in such form and manner, and at such times, as prescribed by the department. The exclusion under this subdivision shall be determined as follows:

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

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

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

71.05 **(6)** (b) 54m. Except for a payment that is exempt under sub. (1) (a), (am), or (an), or that is exempt as a railroad retirement benefit, and except as provided under subd. 54mn., for taxable years beginning after December 31, 2023, the amount, as specified in subd. 54m. b., c., or d., whichever is applicable, of the payments or distributions received each year from a qualified retirement plan under the Internal Revenue Code or from an individual retirement account established under 26 USC 408, if all of the following conditions apply:

a. The individual is at least 67 years of age before the close of the taxable year to which the subtraction relates.

b. If the individual is single or files as head of household, the amount claimed by the individual under this subdivision may not exceed $100,000 for that taxable year.

c. If the individual is married and is a joint filer, and both spouses are at least 67 years of age before the close of the taxable year to which the subtraction relates, the amount claimed by the individual under this subdivision may not exceed $150,000 for that taxable year.

d. If the individual is married and files a separate return, but both spouses are at least 67 years of age before the close of the taxable year to which the subtraction relates, the sum of the amount claimed by the spouses as a subtraction under this subdivision may not exceed $150,000 for that taxable year.

e. The individual has not claimed any credit under s. 71.07.

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

71.05 **(6)** (b) 54mn. For taxable years beginning after December 31, 2023, for an individual who is a nonresident or a part-year resident of this state, the amount that is calculated by multiplying the applicable amount under subd. 54m. b., c., or d. by a fraction the numerator of which is the individual's wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state and the denominator of which is the individual's total wages, salary, tips, unearned income, and net earnings from a trade or business.

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

71.83 **(1)** (a) 6. 'Retirement plans.' Any natural person who is liable for a penalty for federal income tax purposes under section 72 (m) (5), (q), (t), and (v), 4973, 4974, 4975, or 4980A of the Internal Revenue Code is liable for 33 percent of the federal penalty unless the income received is exempt from taxation under s. 71.05 (1) (a) or (6) (b) 54., 54m., or 54mn. The penalties provided under this subdivision shall be assessed, levied, and collected in the same manner as income or franchise taxes.

(END)