



2021 ASSEMBLY BILL 319

May 7, 2021 - Introduced by Representatives AUGUST, KERKMAN, STEFFEN, NOVAK, TRANEL, KNODL, DALLMAN, VANDERMEER, DUCHOW, PLUMER, ARMSTRONG, WICHGERS, MURPHY, WITTKE, TAUCHEN, ROZAR, OLDENBURG, THIESFELDT, DITTRICH, MURSAU and SCHRAA, cosponsored by Senators NASS, WANGGAARD, ROTH, JACQUE, BALLWEG and FELZKOWSKI. Referred to Committee on Ways and Means.

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 (1) (af) of the statutes;
3 **relating to:** expanding and increasing the tax exemption for retirement plan
4 income received by an individual.

Analysis by the Legislative Reference Bureau

Under current law, the pension benefits of certain public employees 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 most of these pension plans, the exemption applies only to persons who were members of or retired from the plans as of December 31, 1963, although this limitation does not apply to retirement payments received from the U.S. Military Employee Retirement System or from payments received from the U.S. government that relate to service with the U.S. Coast Guard, the commissioned corps of the National Oceanic and Atmospheric Administration, or the commissioned corps of the U.S. Public Health Service.

Also under current law, up to \$5,000 of payments or distributions received by certain individuals from a qualified retirement plan under the Internal Revenue Code, or from certain individual retirement accounts, are exempt from taxation. To

ASSEMBLY BILL 319

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.

Under this bill, beginning with taxable year 2021, the \$5,000 exemption for payments or distributions received from a qualified retirement plan or from certain individual retirement accounts may still be claimed, to the extent that such amounts are not already exempt from taxation, but the exemption is not limited to individuals who are at least 65 years old and have federal adjusted gross income of less than \$15,000, or less than \$30,000 if married. Under the bill, the exemption amount increases from \$5,000 to \$10,000 in 2022, to \$15,000 in 2023, and to \$20,000 in 2024 and thereafter.

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:

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

2 71.05 (1) (af) *Pension income.* Except for a payment that is exempt under par.
3 (a), (am), or (an), or that is exempt as a railroad retirement benefit, one of the
4 following amounts of payments or distributions received each year by an individual
5 from a qualified retirement plan under the Internal Revenue Code or from an
6 individual retirement account established under 26 USC 408:

7 1. For taxable years beginning after December 31, 2020, and before January
8 1, 2022, \$5,000.

9 2. For taxable years beginning after December 31, 2021, and before January
10 1, 2023, \$10,000.

11 3. For taxable years beginning after December 31, 2022, and before January
12 1, 2024, \$15,000.

13 4. For taxable years beginning after December 31, 2024, \$20,000.

ASSEMBLY BILL 319**SECTION 2**

1 **SECTION 2.** 71.05 (1) (am) of the statutes, as affected by 2021 Wisconsin Act 1,
2 is amended to read:

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

6 **SECTION 3.** 71.05 (1) (an) of the statutes, as affected by 2021 Wisconsin Act 1,
7 is amended to read:

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

13 **SECTION 4.** 71.05 (6) (b) 4. (intro.) of the statutes, as affected by 2021 Wisconsin
14 Act 1, is amended to read:

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

ASSEMBLY BILL 319**SECTION 4**

1 furnished in such form and manner, and at such times, as prescribed by the
2 department. The exclusion under this subdivision shall be determined as follows:

3 **SECTION 5.** 71.05 (6) (b) 54. (intro.) of the statutes, as created by 2021 Wisconsin
4 Act 1, is amended to read:

5 71.05 **(6)** (b) 54. (intro.) Except for a payment that is exempt under sub. (1) (a),
6 (af), (am), or (an), or that is exempt as a railroad retirement benefit, for taxable years
7 beginning after December 31, 2020, and before January 1, 2022, up to \$5,000 of
8 payments or distributions received each year by an individual from a qualified
9 retirement plan under the Internal Revenue Code or from an individual retirement
10 account established under 26 USC 408, if all of the following conditions apply:

11 **SECTION 6.** 71.83 (1) (a) 6. of the statutes, as affected by 2021 Wisconsin Act 1,
12 is amended to read:

13 71.83 **(1)** (a) 6. 'Retirement plans.' Any natural person who is liable for a
14 penalty for federal income tax purposes under section 72 (m) (5), (q), (t), and (v), 4973,
15 4974, 4975, or 4980A of the Internal Revenue Code is liable for 33 percent of the
16 federal penalty unless the income received is exempt from taxation under s. 71.05
17 (1) (a) or (af) or (6) (b) 54. The penalties provided under this subdivision shall be
18 assessed, levied, and collected in the same manner as income or franchise taxes.

19 (END)