



State of Wisconsin
2005 - 2006 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2005 ASSEMBLY BILL 74**

March 16, 2005 - Offered by Representative OWENS.

1 **AN ACT to amend** 71.05 (1) (am), 71.05 (1) (an), 71.05 (6) (b) 4. and 71.83 (1) (a)
2 6.; and **to create** 71.05 (1) (ae) of the statutes; **relating to:** exempting from
3 taxation retirement plan 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.

This substitute amendment exempts from taxation certain amounts of payments or distributions received each year by an individual from a qualified retirement plan under the Internal Revenue Code, if such payments are not already

exempt from taxation. The substitute amendment first applies to taxable year 2006, and the maximum allowable exemption is \$2,500. The exemption amount increases each year from \$2,500 to \$5,000 in 2007, \$10,000 in 2008, \$15,000 in 2009, and \$20,000 in 2010 and thereafter.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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

2 71.05 (1) (ae) *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:

6 1. For taxable years beginning after December 31, 2005, and before January
7 1, 2007, \$2,500.

8 2. For taxable years beginning after December 31, 2006, and before January
9 1, 2008, \$5,000.

10 3. For taxable years beginning after December 31, 2007, and before January
11 1, 2009, \$10,000.

12 4. For taxable years beginning after December 31, 2008, and before January
13 1, 2010, \$15,000.

14 5. For taxable years beginning after December 31, 2009, \$20,000.

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

16 71.05 (1) (am) *Military retirement systems.* All retirement payments received
17 from the U.S. military employee retirement system, to the extent that such payments
18 are not exempt under par. (a) or (ae).

19 **SECTION 3.** 71.05 (1) (an) of the statutes is amended to read:

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

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

7 71.05 (6) (b) 4. Disability payments other than disability payments that are
8 paid from a retirement plan, the payments from which are exempt under sub. (1) (ae),
9 (am) and (an), if the individual either is single or is married and files a joint return,
10 to the extent those payments are excludable under section 105 (d) of the ~~internal~~
11 ~~revenue code~~ Internal Revenue Code as it existed immediately prior to its repeal in
12 1983 by section 122 (b) of P.L. 98-21, except that if an individual is divorced during
13 the taxable year that individual may subtract an amount only if that person is
14 disabled and the amount that may be subtracted then is \$100 for each week that
15 payments are received or the amount of disability pay reported as income, whichever
16 is less. If the exclusion under this subdivision is claimed on a joint return and only
17 one of the spouses is disabled, the maximum exclusion is \$100 for each week that
18 payments are received or the amount of disability pay reported as income, whichever
19 is less.

20 **SECTION 5.** 71.83 (1) (a) 6. of the statutes is amended to read:

21 71.83 (1) (a) 6. ‘Retirement plans.’ Any natural person who is liable for a
22 penalty for federal income tax purposes under section 72 (m) (5), (q), (t), and (v), 4973,
23 4974, 4975, or 4980A of the ~~internal revenue code~~ Internal Revenue Code is liable
24 for 33% of the federal penalty unless the income received is exempt from taxation

1 under s. 71.05 (1) (a) or (ae). The penalties provided under this subdivision shall be
2 assessed, levied, and collected in the same manner as income or franchise taxes.

3 **SECTION 6. Initial applicability.**

4 (1) This act first applies to taxable years beginning on January 1, 2006.

5 (END)