



State of Wisconsin
2021 - 2022 LEGISLATURE

LRBs0030/1
EKL:skw

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 39**

March 12, 2021 - Offered by Representatives EDMING, RAMTHUN, DALLMAN and MACCO.

1 **AN ACT to repeal** 71.05 (6) (b) 34.; **to amend** 71.07 (6m) (c) 4.; and **to create** 71.05
2 (6) (b) 55. and 71.07 (6m) (c) 5. of the statutes; **relating to:** exempting active
3 duty military pay and sunseting the armed forces member tax credit.

Analysis by the Legislative Reference Bureau

This bill expands the income tax subtraction for active duty military pay and sunsets the armed forces member tax credit.

Under current law, members of a reserve component of the U.S. armed forces who are called into active federal service or special state service may, when computing their state income taxes, subtract from income the basic, special, or incentive pay received from the federal government while on active duty. Eligibility to claim the subtraction is dependent on the member being activated under certain specified sections of the U.S. Code. Under the bill, any individual who is on active duty in the U.S. armed forces may subtract the basic, special, or incentive pay received from the federal government. The bill also allows Wisconsin national guard members to subtract the pay received from the state while on active state duty. The bill's provisions generally apply to taxable years beginning after December 31, 2020, however the bill allows the subtraction to be made retroactively to October 1, 2019, for members of a reserve component of the U.S. armed forces who were activated under a section of the U.S. Code that relates to orders to active duty for preplanned missions in support of the combatant commands.

The bill also provides that no claims for the armed forces member tax credit may be made for taxable years beginning after December 31, 2020. Under current law, an active duty member of the U.S. armed forces may claim a credit of up to \$300 of military pay for services performed while stationed outside the United States, except that the credit may not be claimed if the member makes the subtraction discussed above.

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

1 **SECTION 1.** 71.05 (6) (b) 34. of the statutes is repealed.

2 **SECTION 2.** 71.05 (6) (b) 55. of the statutes is created to read:

3 71.05 **(6)** (b) 55. a. Any amount of basic, special, or incentive pay income, as
4 those terms are used in 37 USC chapters 3 and 5, received from the federal
5 government by an individual who is on active duty in the U.S. armed forces, as
6 defined in 26 USC 7701 (a) (15).

7 b. Any amount of pay, as described in s. 321.35, received from this state by a
8 member of the Wisconsin national guard who is on state active duty under s. 321.39,
9 to the extent that the income is not subtracted under subd. 55. a.

10 **SECTION 3.** 71.07 (6m) (c) 4. of the statutes is amended to read:

11 71.07 **(6m)** (c) 4. No credit may be claimed under this subsection by an
12 individual who claims the subtraction under s. 71.05 (6) (b) 34., 2019 stats., or s.
13 71.05 (6) (b) 55.

14 **SECTION 4.** 71.07 (6m) (c) 5. of the statutes is created to read:

15 71.07 **(6m)** (c) 5. No new claims may be filed under this subsection for taxable
16 years that begin after December 31, 2020.

17 **SECTION 5. Initial applicability.**

18 (1) This act first applies to taxable years beginning after December 31, 2020,
19 except as follows:

1 (a) For an individual who is a member of a reserve component of the U.S. armed
2 forces called into active federal service under 10 USC 12304b, the treatment of s.
3 71.05 (6) (b) 55. a. first applies retroactively to income and compensation paid on
4 October 1, 2019, to the individual by the federal government for such federal service
5 and the amendment of s. 71.07 (6m) (c) 4. as it relates to s. 71.05 (6) (b) 55. a. first
6 applies retroactively to taxable years beginning after December 31, 2018.

7

(END)