



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRB-5111/1  
MES:klm

## 2017 ASSEMBLY BILL 1023

March 15, 2018 - Introduced by Representatives SUBECK, ANDERSON, BOWEN, BROSTOFF, HEBL, SARGENT, SINICKI, ZAMARRIPA and ZEPNICK, cosponsored by Senator RISSER. Referred to Committee on Ways and Means.

1     **AN ACT to amend** 71.05 (1) (ae) (intro.), 71.05 (1) (an), 71.05 (6) (b) 4. and 71.83  
2           (1) (a) 6.; and **to create** 71.05 (1) (ad) of the statutes; **relating to:** exempting  
3           from taxation the federal pension benefits of certain retired federal employees.

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### *Analysis by the Legislative Reference Bureau*

This bill exempts from taxation all retirement payments received by an individual from the U.S. Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS), or both, to the extent that such payments are not currently subject to an exemption.

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 CSRS, the U.S. Military Employee Retirement System, the Milwaukee City and County Retirement Systems, the police officer's and fire fighter'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

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Code, or from certain individual retirement accounts, are exempt from taxation. 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.

Under federal law, until 1984, employment by the federal government was covered entirely under CSRS and not by social security. Federal employees who began working for the federal government in 1984 or later are covered by CSRS and Social Security, or by FERS, instead of entirely by the CSRS. In 1986, the federal government created FERS. Some federal employees who had been covered by CSRS switched to FERS, and some stayed in CSRS. Work under FERS is covered by social security. Federal employees who remained in CSRS after 1983 are still not covered by social security.

This bill exempts from taxation all payments received from CSRS or FERS, or both, to the extent that such payments are not already exempt, and without regard to whether the former employee was a member of or retired from CSRS as of December 31, 1963.

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.

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

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

2           71.05 (1) (ad) *Federal employee pension income.* All retirement payments  
3 received from the U.S. civil service retirement system or from the federal employees  
4 retirement system, or both, to the extent that such payments are not exempt under  
5 par. (a), (ae), or (an).

6           **SECTION 2.** 71.05 (1) (ae) (intro.) of the statutes is amended to read:

7           71.05 (1) (ae) *Pension, individual retirement income.* (intro.) Except for a  
8 payment that is exempt under par. (a), (ad), (am), or (an), or that is exempt as a  
9 railroad retirement benefit, for taxable years beginning after December 31, 2008, up  
10 to \$5,000 of payments or distributions received each year by an individual from a  
11 qualified retirement plan under the Internal Revenue Code or from an individual

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1 retirement account established under 26 USC 408, if all of the following conditions  
2 apply:

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

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

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

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

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

23 71.83 (1) (a) 6. 'Retirement plans.' Any natural person who is liable for a  
24 penalty for federal income tax purposes under section 72 (m) (5), (q), (t), and (v), 4973,  
25 4974, 4975, or 4980A of the Internal Revenue Code is liable for 33 percent of the

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1 federal penalty unless the income received is exempt from taxation under s. 71.05  
2 (1) (a), (ad), or (ae). The penalties provided under this subdivision shall be assessed,  
3 levied, and collected in the same manner as income or franchise taxes.

4 **SECTION 6. Initial applicability.**

5 (1) This act first applies to taxable years beginning on January 1 of the year  
6 in which this subsection takes effect, except that if this subsection takes effect after  
7 July 31, this act first applies to taxable years beginning on January 1 of the year  
8 following the year in which this subsection takes effect.

9 (END)