



## 2009 ASSEMBLY BILL 967

April 20, 2010 – Introduced by Representatives DAVIS, LOTHIAN, KERKMAN, NYGREN, PRIDEMORE, SUDER, TOWNSEND and KAUFERT, cosponsored by Senators LEIBHAM and SCHULTZ. Referred to Joint Survey Committee on Tax Exemptions.

1     **AN ACT** *to amend* 71.05 (1) (ae) (intro.), 71.05 (1) (am), 71.05 (1) (an), 71.05 (6)  
2           (b) 4. and 71.83 (1) (a) 6.; and *to create* 71.05 (1) (af) of the statutes; **relating**  
3           **to:** expanding and increasing the tax exemption for retirement income received  
4           by an individual.

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### *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 967**

be eligible, the individual must be at least 65 years old and have federal adjusted gross income (FAGI) under \$15,000, or under \$30,000 if married.

Under this bill, the \$5,000 exemption for certain individuals who are at least 65 years old and have limited FAGI applies only for taxable years 2009 and 2010. Beginning with taxable year 2011, any amount of payment or distribution from a qualified retirement plan under the Internal Revenue Code, or from certain individual retirement accounts, are exempt from taxation, to the extent that such amounts are not already exempt from taxation. Under the bill, the exemption is not limited to individuals who are at least 65 years old and have FAGI of less than \$15,000, or less than \$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 and local* 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) (ae) (intro.) of the statutes is amended to read:

2           71.05 (1) (ae) *Pension, individual retirement income.* (intro.) Except for a  
3 payment that is exempt under par. (a), (am), or (an), or that is exempt as a railroad  
4 retirement benefit, for taxable years beginning after December 31, 2008, and before  
5 January 1, 2011, up to \$5,000 of payments or distributions received each year by an  
6 individual from a qualified retirement plan under the Internal Revenue Code or from  
7 an individual retirement account established under 26 USC 408, if all of the  
8 following conditions apply:

9           **SECTION 2.** 71.05 (1) (af) of the statutes is created to read:

10          71.05 (1) (af) *Pension income.* Except for a payment that is exempt under par.  
11 (a), (am), or (an), or that is exempt as a railroad retirement benefit, any amount of  
12 payment or distribution received each year by an individual from a qualified  
13 retirement plan under the Internal Revenue Code or from an individual retirement  
14 account established under 26 USC 408.

**ASSEMBLY BILL 967**

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

2           71.05 (1) (am) *Military retirement systems.* All retirement payments received  
3 from the U.S. military employee retirement system, to the extent that such payments  
4 are not exempt under par. (a) ~~or~~, (ae), or (af).

5           **SECTION 4.** 71.05 (1) (an) of the statutes is amended to read:

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

11           **SECTION 5.** 71.05 (6) (b) 4. of the statutes is amended to read:

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

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

