



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-2088/1
EKL:kjf

2021 ASSEMBLY BILL 223

March 31, 2021 - Introduced by Representatives ARMSTRONG, OHNSTAD, ANDERSON, BROOKS, BALDEH, CABRERA, CONLEY, DOYLE, HEBL, KERKMAN, KNODL, MCGUIRE, B. MEYERS, MOSES, NEUBAUER, S. RODRIGUEZ, ROZAR, SHANKLAND, SINICKI, SKOWRONSKI, SPREITZER, STUBBS, SUBECK, VANDERMEER, VRUWINK and DRAKE, cosponsored by Senators KOOYENGA, WIRCH and L. TAYLOR. Referred to Committee on Ways and Means.

1 **AN ACT** *to amend* 71.05 (1) (an), 71.05 (6) (b) 4. (intro.), 71.05 (6) (b) 54. (intro.)
2 and 71.83 (1) (a) 6.; and *to create* 71.05 (1) (ad) of the statutes; **relating to:**
3 exempting from taxation the pension benefits of certain federal employees.

Analysis by the Legislative Reference Bureau

This bill exempts from taxation up to \$8,000 in payments received in 2021 by an individual from the U.S. Civil Service Retirement System and the full amount of such payments received in 2022 and beyond. Under the bill, the exemption applies without regard to when the individual became a member of or retired under CSRS. CSRS was the retirement system used by the federal government until 1984. In 1984, the federal government created a new retirement system, but federal employees covered by CSRS were allowed to choose to stay in CSRS.

Under current law, payments received from CSRS are exempt from Wisconsin income taxes, but generally only if the individual was a member of or retired under CSRS as of December 31, 1963. Similarly, payments received from 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 are exempt from tax for individuals who were members of or retired from the systems as of December 31, 1963. Current law also provides an exemption for payments received from the U.S. Military Employee Retirement System and retirement payments that relate to service with the U.S. Coast Guard, the commissioned corps of the National Oceanic and Atmospheric Administration,

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and the commissioned corps of the U.S. Public Health Service. Also under current law, an individual may subtract up to \$5,000 of payments or distributions received from a qualified retirement plan or individual retirement account if the individual is at least 65 years old and has federal adjusted gross income of less than \$15,000, or \$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 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) (ad) of the statutes is created to read:

2 71.05 (1) (ad) *Federal employee pension income.* One of the following amounts
3 of payments received from the U.S. civil service retirement system, to the extent that
4 the payments are not exempt under par. (a) or (an):

5 1. For taxable years beginning after December 31, 2020, and before January
6 1, 2022, up to \$8,000 of the payments received during the taxable year.

7 2. For taxable years beginning after December 31, 2021, the amount of the
8 payments received during the taxable year.

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

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

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

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1 71.05 (6) (b) 4. (intro.) Disability payments other than disability payments that
2 are paid from a retirement plan, the payments from which are exempt under sub. (1)
3 (ad), (am), (an), and (b) 54., if the individual either is single or is married and files
4 a joint return and is under 65 years of age before the close of the taxable year to which
5 the subtraction relates, retired on disability, and, when the individual retired, was
6 permanently and totally disabled. In this subdivision, “permanently and totally
7 disabled” means an individual who is unable to engage in any substantial gainful
8 activity by reason of any medically determinable physical or mental impairment that
9 can be expected to result in death or which has lasted or can be expected to last for
10 a continuous period of not less than 12 months. An individual shall not be considered
11 permanently and totally disabled for purposes of this subdivision unless proof is
12 furnished in such form and manner, and at such times, as prescribed by the
13 department. The exclusion under this subdivision shall be determined as follows:

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

16 71.05 (6) (b) 54. (intro.) Except for a payment that is exempt under sub. (1) (a),
17 (ad), (am), or (an), or that is exempt as a railroad retirement benefit, for taxable years
18 beginning after December 31, 2020, up to \$5,000 of payments or distributions
19 received each year by an individual from a qualified retirement plan under the
20 Internal Revenue Code or from an individual retirement account established under
21 26 USC 408, if all of the following conditions apply:

22 **SECTION 5.** 71.83 (1) (a) 6. of the statutes, as affected by 2021 Wisconsin Act 1,
23 is amended to read:

24 71.83 (1) (a) 6. “Retirement plans.” Any natural person who is liable for a
25 penalty for federal income tax purposes under section 72 (m) (5), (q), (t), and (v), 4973,

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SECTION 5

1 4974, 4975, or 4980A of the Internal Revenue Code is liable for 33 percent of the
2 federal penalty unless the income received is exempt from taxation under s. 71.05
3 (1) (a) or (ad) or (6) (b) 54. The penalties provided under this subdivision shall be
4 assessed, levied, and collected in the same manner as income or franchise taxes.

5 **SECTION 6. Initial applicability.**

6 (1) This act first applies to taxable years beginning on January 1, 2021.

7 (END)