2001 DRAFTING REQUEST

Bill

Received: **05/25/2001**

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Neal Kedzie (608) 266-9650**

By/Representing: **Rep. Kedzie**

This file may be shown to any legislator: **NO**

Drafter: **shoveme**

May Contact: **Dan Johnson**

Addl. Drafters: **champra**

Subject: **Tax - individual income**

Extra Copies:

Submit via email: **NO**

Requester's email:

Pre Topic:

No specific pre topic given

Topic:

Individual income tax exemption for all pension income

Instructions:

See Attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	shoveme 05/25/2001	gilfokm 05/25/2001		_______ _______			State Tax
/1			rschluet 05/30/2001	_______ _______	lrb_docadmin 05/30/2001		State Tax

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/2	shoveme 05/31/2001	gilfokm 05/31/2001	pgreensl 05/31/2001	_______ _______	lrb_docadmin 05/31/2001		State Tax
/3	shoveme 06/06/2001	gilfokm 06/06/2001	jfrantze 06/09/2001	_______ _______	lrb_docadmin 06/09/2001	lrb_docadmin 06/12/2001	

FE Sent For:

<END>

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/3	shoveme 06/06/2001	gilfokm 06/06/2001	jfrantze 06/09/2001	_______ _______	lrb_docadmin 06/09/2001		

FE Sent For:

<END>

LRB-3369

2001 DRAFTING REQUEST

Bill

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Wanted: **As time permits**

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For: **Neal Kedzie (608) 266-9650**

By/Representing: **Rep. Kedzie**

This file may be shown to any legislator: **NO**

Drafter: **shoveme**

May Contact: **Dan Johnson**

Addl. Drafters: RAC

Subject: **Tax - individual income**

Extra Copies: ~~RAC~~

Submit via email: **NO**

Requester's email:

Pre Topic:

No specific pre topic given

Topic:

Individual income tax exemption for all pension income

Instructions:

See Attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	shoveme 05/25/2001	gilfokm 05/25/2001		_______ _______			State Tax
/1			rschluet 05/30/2001	_______ _______	lrb_docadmin 05/30/2001		State Tax
/2	shoveme	gilfokm	pgreensl	_______	lrb_docadmin		

/3 - 6/6-01 kmg   ~~ro~~ 6/8   ~~sg~~/Rs 6/8

LRB-3369

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
	05/31/2001	05/31/2001	05/31/2001	_______	05/31/2001		

FE Sent For:

<END>

LRB-3369

2001 DRAFTING REQUEST

Bill

Received: **05/25/2001**

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Neal Kedzie (608) 266-9650**

By/Representing: **Rep. Kedzie**

This file may be shown to any legislator: **NO**

Drafter: **shoveme**

May Contact: **Dan Johnson**

Addl. Drafters:

Subject: **Tax - individual income**

Extra Copies: RAC

Submit via email: **NO**

Requester's email:

Pre Topic:

No specific pre topic given

Topic:

Individual income tax exemption for all pension income

Instructions:

See Attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	shoveme 05/25/2001	gilfokm 05/25/2001					State Tax
/1		/2-5/31-01 kmg	rschluet 05/30/2001		lrb_docadmin 05/30/2001		

/2 MES 5/31/01

5/31 PG

5/31 PS KF

FE Sent For:

LRB-3369

2001 DRAFTING REQUEST

Bill

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By/Representing: **Rep. Kedzie**

This file may be shown to any legislator: **NO**

Drafter: **shoveme**

May Contact: **Dan Johnson**

Addl. Drafters:

Subject: **Tax - individual income**

Extra Copies:

Submit via email: **NO**

Requester's email:

Pre Topic:

No specific pre topic given

Topic:

Individual income tax exemption for all pension income

Instructions:

See Attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	shoveme	/1-5/25-01 kmg	5-30-1	5-30-1			

/1 MES 5/25/01

FE Sent For:

<END>

Shovers, Marc

From: Rep.Kedzie
Sent: Monday, May 21, 2001 1:27 PM
To: Shovers, Marc
Subject: Drafting request: Pension income exemption

Dear Marc,

Please accept this e-mail as a formal drafting request to include all pension income in the list of exempt and excludable income under 71.05 (1).

I would like the bill to apply on January 1 of the year in which the bill takes effect, unless the bill takes effect after July 31, it should apply to taxable years beginning on January 1 of the year following the year in which the bill takes effect.

My Research Assistant, Dan Johnson, will be the contact person on this bill and, at this time, do not share this request with anyone else.

Thank you,

Neal Kedzie
State Representative
43rd Assembly District

-3369/1

2001 – 2002 LEGISLATURE

LRB–~~1368/1~~
MES:kmg:~~jf~~ 4

FMNR

2001 ~~SENATE~~ BILL ~~36~~

D-note

January 31, 2001 – Introduced by Senators PLACHE, WIRCH, ROBSON, ~~MOEN~~, BURKE, ~~ROESSLER~~, SCHULTZ, BRESKE, LAZICH, BAUMGART, ~~SHIBILSKI~~, DARLING and M. MEYER, cosponsored by Representatives JESKEWITZ, RYBA, J. LEHMAN, TURNER, LASSA, LADWIG, CARPENTER, ~~KREUSER~~, ~~MORRIS-TATUM~~, WILLIAMS, TRAVIS, ALBERS and REYNOLDS. Referred to Joint survey committee on Tax Exemptions.

Meyer

AN ACT *to create* 71.05 (1) (am) of the statutes; **relating to:** exempting from taxation certain amounts of pension income received by an individual.

Analysis by the Legislative Reference Bureau

Under current law, the pension benefits of certain public employes 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 employe 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 all of these pension plans, the exemption applies only to persons who were members of or retired from the plans as of December 31, 1963.

This bill exempts from taxation any amount ~~up to $5,000~~ of pension payments received each year by an individual, if such payments are not already exempt from taxation.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this 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:

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

71.05 **(1)** (am) *Pension income.* Except for a payment that is exempt under par. (a) or that is exempt as a railroad retirement benefit, ~~up to $5,000~~ any amount of payments received each year by an individual from a retirement plan offered by an employer.

SECTION 2. Initial applicability.

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

(END)

D-Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

-3369/1dn
LRB-~~1368/1dn~~
MES:kmg:jf

December 12, 2000

Please review this bill very carefully to ensure that it captures your intent. There are a number of different pensions that exist and the language in created s. 71.05 (1) (am) is very broad, but I'm not sure if it is too broad or too narrow. IRAs, for example, would not be covered by the bill because they are not payments received from a retirement plan offered by an employer. You may want the Department of Revenue to review the bill to see how it would interpret the bill.

Also, there is no requirement under the bill that the exemption be available only to retired persons. For example, an individual could have worked someplace for 30 years, retired, and started collecting his or her pension and then decided to go back to work full time at age 59. Under the bill, his or her pension would be eligible for the exemption even though he or she is working full time. Is this consistent with your intent?

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266–0129
E–mail: marc.shovers@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB–3369/1dn
MES:kmg:rs

May 30, 2001

Please review this bill very carefully to ensure that it captures your intent. There are a number of different pensions that exist and the language in created s. 71.05 (1) (am) is very broad, but I'm not sure if it is too broad or too narrow. IRAs, for example, would not be covered by the bill because they are not payments received from a retirement plan offered by an employer. You may want the Department of Revenue to review the bill to see how it would interpret the bill.

Also, there is no requirement under the bill that the exemption be available only to retired persons. For example, an individual could have worked someplace for 30 years, retired, and started collecting his or her pension and then decided to go back to work full time at age 59. Under the bill, his or her pension would be eligible for the exemption even though he or she is working full time. Is this consistent with your intent?

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266–0129
E–mail: marc.shovers@legis.state.wi.us

Shovers, Marc

From: Johnson, Dan (Legislature)
Sent: Thursday, May 31, 2001 9:25 AM
To: Shovers, Marc
Subject: LFB paper: pension income

pension income.PDF

Dan Johnson
Research Assistant
Clerk, Committee on Environment
State Representative Neal Kedzie
43rd Assembly District
(608) 266-9650

Instructions For /2:
include all retirement plans - IRAs, SEPs, etc. --

Note to file

5/31/01 I talked to Dan & pointed out that IRAs can be used for non-retirement purposes - i.e., "hardship", 1st home purchase, college education -- he said that's OK for now -- he'll talk to his boss & Tom Reid at DOR & see if they want any changes made to the /2.

Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

May 15, 2001

TO: Representative Scott Jensen
Room 211 West, State Capitol

FROM: Faith Russell, Fiscal Analyst

SUBJECT: Individual Income Tax Proposal to Exempt Pension Income and Social Security Benefits from Taxation

This memorandum provides information on a proposal to exempt pension income and social security benefits from the state's individual income tax.

Current Law

Pension Benefits

Generally, Wisconsin follows federal practice and taxes most public and private pension income, if the pension contribution was not previously taxed to the employee at the time the contribution was set aside for retirement. Under Wisconsin law, there are two broad exceptions to this policy. First, federal law requires that Tier I railroad retirement benefits be exempt from state taxation.

Second, all pension payments received by taxpayers who were members of or retired from certain public pension systems prior to 1964 are excluded from taxation under state law. This exclusion applies to federal civilian and military retirement systems. In addition, benefits received under the following state and local retirement plans are eligible for this exclusion: (a) Milwaukee Public School Teachers' Annuity and Retirement Fund; (b) Wisconsin State Teachers' Retirement System; (c) Employers' Retirement System of the City of Milwaukee; (d) Milwaukee County Employees' Retirement System; (e) Sheriffs' Annuity and Benefit Fund of Milwaukee County; (f) Policemen's Annuity and Benefit Fund of Milwaukee; and (g) Firemen's Annuity and Benefit Fund of Milwaukee.

The exclusion for benefits from certain state and local pension plans represents the continuation of a grandfather provision established at the time a change was made in state tax policy in the early 1960s. The federal pension exclusion was made in response to a March, 1989, U.S. Supreme Court ruling on Davis v. Michigan Department of Treasury. In this case, the Court's ruling has been interpreted to require states to provide the same exclusion for federal pensions as provided for other types of pensions.

Social Security Benefits

Currently, Wisconsin follows pre-1994 federal law and taxes up to 50% of social security benefits for taxpayers with provisional income above the following thresholds: $25,000 if single, $32,000 if married-joint and zero if married-separate. The taxable portion is the lesser of: (a) one-half of net social security benefits; or (b) one-half of the amount by which provisional income exceeds the threshold amount. Provisional income is defined as one-half of social security plus federal adjusted gross income (AGI), tax-exempt interest and other specified amounts that are excluded from gross income. No benefits are taxed for taxpayers with provisional income below these threshold amounts.

Under federal law, the pre-1994 treatment continues to apply to single taxpayers with provisional income below $34,000 and married-joint taxpayers with provisional income below $44,000. Up to 50% of social security benefits are taxable for such taxpayers. For taxpayers with provisional income above these higher thresholds, the federally taxable portion of social security payments is the lesser of: (a) 85% of social security; or (b) the amount included under pre-1994 law plus 85% of the excess of provisional income over the applicable higher income thresholds. At the federal level, married-separate taxpayers are taxed on the lesser of 85% of social security or 85% of provisional income.

Proposal

A proposal to exempt pension income and social security benefits from taxation in Wisconsin in tax year 2001 is estimated to reduce income tax revenues by $300.5 million in 2001-02 and $324.5 million in 2002-03, for a biennial total of $625.0 million. In addition to social security benefits, this fiscal estimate reflects all qualified pension, profit-sharing and stock bonus plans included in the federal Internal Revenue Code (IRC) Sections 401 through 409. Specifically, the estimate includes private and U.S. government pensions and annuities, 401(k) plans [including savings incentive match plans for employees (SIMPLE) 401(k) plans], self-employed plans (such as Keogh/H.R. 10 plans) and tax-sheltered annuities [deferred compensation plans of exempt organizations and public schools under IRC section 403(b)]. The estimate does not include exempting the following three sources of retirement income: (a) distributions from IRAs [including traditional IRAs, SIMPLE IRAs, and simplified employee pension (SEP) IRAs]; (b) deferred compensation distributed by state and local governments and tax-exempt organizations under IRC Section 457; or (c) taxable lump-sum distributions.

If the two components of the proposal were considered separately, the estimated costs would be as follows: (a) $232.5 million in 2001-02 and $247.0 million in 2002-03 for exempting pension income and not social security benefits; and (b) $85.5 million in 2001-02 and $98.2 million in 2002-03 for exempting social security benefits and not the other types of retirement income identified above. The biennial cost of exempting only pension income is estimated at $479.5 million. The total cost for the 2001-03 biennium of exempting only social security benefits is estimated at $183.7 million. However, due to interaction effects, the $625.0 million estimated cost of exempting all of these types of income is less than the sum of the estimated costs of the two separate components.

You also asked for information on the estimated cost of exempting only military pension income. Based on information from the U.S. Department of Defense on the amount of military retirement benefits paid to Wisconsin residents, the estimated cost of exempting all military retirement payments would be $7.4 million in 2001-02 and $7.9 million in 2002-03, for a total biennial cost of $15.3 million. These figures exclude the cost of the current law exemption for military personnel who were military retirement system members prior to 1964. The estimated costs of exempting all military pension income are included in the estimated cost of exempting all pension income provided above.

Distributional Information

Attachment 1 to this memorandum provides distributional information on a proposal to exempt pension income and social security benefits from the state's income tax. Attachment 2 provides distributional information on a proposal to exempt pension income only. Attachment 3 provides the same information for an exemption for social security benefits only. The distributional information is from the 1999 Wisconsin tax sample, which has data from over 20,000 tax returns, weighted to reflect all taxpayers in 1999. However, changes over time in the number of taxpayers and the kinds and amounts of income, deductions and credits they claim cannot be shown. To the extent possible, changes in tax laws between 1999 and later years have been included. The total fiscal effects shown in the attachments differ from the fiscal estimates of the proposals outlined above because the attachments reflect 1999 data and the fiscal estimates are for the 2001-03 biennium. There is no distributional information for a proposal to exempt military pension income only, as these estimates are not based on the tax sample and distributional information is not available.

I hope this information is helpful. If you have any further questions, please contact me.

FR/sas
Attachments

ATTACHMENT 1

Distribution of Taxpayers with a Tax Decrease Under a Proposal to Exempt Pension and Social Security Benefits (Tax Year 2001)

Wisconsin Adjusted Gross Income	Taxpayers With a Tax Decrease: Count	Percent of Count	Amount of Tax Decrease	Percent of Amount	Average Decrease	Count of All Returns	% of All Returns in AGI Class
Under $5,000	2,100	0.6%	-$182,000	0.1%	-$87	333,800	0.6%
5,000 to 10,000	1,900	0.6%	-275,000	0.1%	-145	280,800	0.7%
10,000 to 15,000	19,000	5.8%	-2,679,000	1.1%	-141	222,200	8.6%
15,000 to 20,000	22,000	6.7%	-4,486,000	1.8%	-204	210,400	10.5%
20,000 to 25,000	34,500	10.5%	-7,909,000	3.1%	-229	190,500	18.1%
25,000 to 30,000	31,100	9.4%	-14,157,000	5.6%	-455	164,300	18.9%
30,000 to 40,000	49,600	15.0%	-33,933,000	13.3%	-684	268,900	18.4%
40,000 to 50,000	44,700	13.5%	-41,744,000	16.4%	-934	217,300	20.6%
50,000 to 60,000	34,500	10.5%	-33,889,000	13.3%	-982	180,300	19.1%
60,000 to 70,000	26,900	8.2%	-29,006,000	11.4%	-1,078	143,000	18.8%
70,000 to 80,000	16,000	4.8%	-15,836,000	6.2%	-990	97,800	16.4%
80,000 to 90,000	11,100	3.4%	-13,114,000	5.2%	-1,181	64,500	17.2%
90,000 to 100,000	8,400	2.5%	-10,281,000	4.0%	-1,224	42,600	19.7%
100,000 to 150,000	15,400	4.7%	-23,157,000	9.1%	-1,504	79,300	19.4%
150,000 to 200,000	5,400	1.6%	-7,944,000	3.1%	-1,471	21,600	25.0%
200,000 to 250,000	2,400	0.7%	-4,923,000	1.9%	-2,051	8,500	28.2%
250,000 to 300,000	1,200	0.4%	-1,666,000	0.7%	-1,388	5,400	22.2%
300,000 and over	3,700	1.1%	-9,289,000	3.7%	-2,511	14,200	26.1%
TOTALS	329,900	100.0%	-$254,470,000	100.0%	-$771	2,545,400	13.0%

SOURCE: 1999 Wisconsin Tax Sample

- Approximately 329,900 taxpayers, or 13.0% of all taxpayers in 1999, would have a tax decrease under the proposal.

- Taxpayers with income between $30,000 and $70,000 would receive 54.4% of the total reduction and make up 47.2% of all taxpayers with a tax decrease.

- For all taxpayers with a tax reduction, the average tax decrease would be $771.

ATTACHMENT 2

Distribution of Taxpayers with a Tax Decrease Under a Proposal to Exempt Pension Benefits (Tax Year 2001)

Wisconsin Adjusted Gross Income	Taxpayers With a Tax Decrease: Count	Percent of Count	Amount of Tax Decrease	Percent of Amount	Average Decrease	Count of All Returns	% of All Returns in AGI Class
Under $5,000	0	0.0%	$0	0.00%	$0	333,800	0.0%
5,000 to 10,000	900	0.3%	-29,000	0.01%	-32	280,800	0.3%
10,000 to 15,000	16,200	5.9%	-1,439,000	0.71%	-89	222,200	7.3%
15,000 to 20,000	19,600	7.1%	-3,978,000	1.96%	-203	210,400	9.3%
20,000 to 25,000	30,100	10.9%	-6,707,000	3.30%	-223	190,500	15.8%
25,000 to 30,000	26,000	9.4%	-11,216,000	5.52%	-431	164,300	15.8%
30,000 to 40,000	41,800	15.1%	-26,842,000	13.22%	-642	268,900	15.5%
40,000 to 50,000	36,600	13.3%	-30,997,000	15.27%	-847	217,300	16.8%
50,000 to 60,000	27,600	10.0%	-25,926,000	12.77%	-939	180,300	15.3%
60,000 to 70,000	22,600	8.2%	-23,356,000	11.50%	-1,033	143,000	15.8%
70,000 to 80,000	14,100	5.1%	-12,601,000	6.21%	-894	97,800	14.4%
80,000 to 90,000	9,500	3.4%	-11,053,000	5.44%	-1,163	64,500	14.7%
90,000 to 100,000	7,400	2.7%	-8,881,000	4.37%	-1,200	42,600	17.4%
100,000 to 150,000	13,900	5.0%	-20,335,000	10.01%	-1,463	79,300	17.5%
150,000 to 200,000	4,200	1.5%	-6,616,000	3.26%	-1,575	21,600	19.4%
200,000 to 250,000	1,900	0.7%	-3,972,000	1.96%	-2,091	8,500	22.4%
250,000 to 300,000	700	0.3%	-1,149,000	0.57%	-1,641	5,400	13.0%
300,000 and over	2,900	1.1%	-7,962,000	3.92%	-2,746	14,200	20.4%
TOTALS	276,000	100.0%	-$203,059,000	100.00%	-$736	2,545,400	10.8%

SOURCE: 1999 Wisconsin Tax Sample

- Approximately 276,000 taxpayers, or 10.8% of all taxpayers in 1999, would have a tax decrease under the proposal.

- Taxpayers with income between $30,000 and $70,000 would receive 52.8% of the total reduction and make up 46.6% of all taxpayers with a tax decrease.

- For all taxpayers with a tax reduction, the average tax decrease would be $736.

ATTACHMENT 3

Distribution of Taxpayers with a Tax Decrease Under a Proposal to Exempt Social Security Benefits (Tax Year 2001)

	Taxpayers With a Tax Decrease						% of All
Wisconsin Adjusted Gross Income	Count	Percent of Count	Amount of Tax Decrease	Percent of Amount	Average Decrease	Count of All Returns	Returns in AGI Class
Under $5,000	2,100	1.3%	-$182,000	0.3%	-$87	333,800	0.6%
5,000 to 10,000	1,000	0.6%	-246,000	0.4%	-246	280,800	0.4%
10,000 to 15,000	3,900	2.4%	-1,274,000	2.0%	-327	222,200	1.8%
15,000 to 20,000	4,600	2.8%	-704,000	1.1%	-153	210,400	2.2%
20,000 to 25,000	13,300	8.1%	-1,705,000	2.6%	-128	190,500	7.0%
25,000 to 30,000	20,200	12.3%	-4,488,000	6.9%	-222	164,300	12.3%
30,000 to 40,000	33,100	20.1%	-10,976,000	17.0%	-332	268,900	12.3%
40,000 to 50,000	29,700	18.0%	-14,454,000	22.4%	-487	217,300	13.7%
50,000 to 60,000	19,500	11.8%	-9,817,000	15.2%	-503	180,300	10.8%
60,000 to 70,000	12,200	7.4%	-6,466,000	10.0%	-530	143,000	8.5%
70,000 to 80,000	6,700	4.1%	-3,530,000	5.5%	-527	97,800	6.9%
80,000 to 90,000	3,800	2.3%	-2,166,000	3.4%	-570	64,500	5.9%
90,000 to 100,000	2,700	1.6%	-1,537,000	2.4%	-569	42,600	6.3%
100,000 to 150,000	5,200	3.2%	-2,824,000	4.4%	-543	79,300	6.6%
150,000 to 200,000	2,700	1.6%	-1,434,000	2.2%	-531	21,600	12.5%
200,000 to 250,000	1,300	0.8%	-958,000	1.5%	-737	8,500	15.3%
250,000 to 300,000	700	0.4%	-531,000	0.8%	-759	5,400	13.0%
300,000 and over	2,000	1.2%	-1,341,000	2.1%	-671	14,200	14.1%
TOTALS	164,700	100.0%	-$64,633,000	100.0%	-$392	2,545,400	6.5%

SOURCE: 1999 Wisconsin Tax Sample

- Approximately 164,700 taxpayers, or 6.5% of all taxpayers in 1999, would have a tax decrease under the proposal.

- Taxpayers with income between $30,000 and $70,000 would receive 64.6% of the total reduction and make up 57.3% of all taxpayers with a tax decrease.

- For all taxpayers with a tax reduction, the average tax decrease would be $392.

State of Wisconsin
2001 – 2002 LEGISLATURE

LRB–3369/~~1~~ 2
MES:kmg:~~rs~~

2001 BILL

The exemption in the bill includes all qualified pension, profit-sharing, and stock bonus plans, under the Internal Revenue Code (IRC), deferred compensation plans offered by state and local governments and tax-exempt organizations under the IRC, self-employed plans, tax-sheltered annuities, plans that are not qualified under the IRC, and individual retirement accounts.

reopen

AN ACT ~~to create~~ 71.05 (1) (am) of the statutes; **relating to:** exempting from taxation ~~certain amounts of pension~~ retirement plan income received by an individual.

Analysis by the Legislative Reference Bureau

Under current law, the pension benefits of certain public employe~~s 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 employe 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 all of these pension plans, the exemption applies only to persons who were members of or retired from the plans as of December 31, 1963.

This bill exempts from taxation ~~up to $5,000~~ any amount of ~~pension~~ payments received each year by an individual from a retirement plan, if such payments are not already exempt from taxation.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this 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:

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

71.05 **(1)** (am) *Pension income.* Except for a payment that is exempt under par. (a) or that is exempt as a railroad retirement benefit, any amount of payments received each year by an individual from a retirement plan ~~offered by an employer~~.

SECTION 2. Initial applicability.

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

(END)

, including a plan that is included in sections 401 to 409 or section 457 of the Internal Revenue Code

MEMO

To: Marc Shovers, Senior Legislative Attorney

From: Representative Neal Kedzie

Date: June 5, 2001

Re: Clarifications on LRB 3369/2

INCLUDED IN THE EXEMPTION

Pension Plans (IRC Sections 401- 409): A defined benefit retirement plan provided by an employer, whereby the employer makes all or most contributions to the plan.

457 Plans: A retirement plan offered by tax-exempt entities including states, counties, cities, and political subdivisions and agencies that allows employees to invest a portion of their pretax pay in a retirement account. The amounts set aside and the investment earnings grow tax-deferred until withdrawn.

401(k): A retirement plan offered by companies and some non-profit organizations that allows employees to invest a portion of their pretax pay in a retirement account. The amounts set aside and the investment earnings grow tax-deferred until withdrawn.

403(b): A retirement plan offered by certain non-profit organizations including public schools, and some hospitals.

Exempt Hardship Withdrawals from state taxes:

1. Medical fees of the participant, spouse or dependents
2. Purchase of principal residence (excluding mortgage payments)
3. Tuition and related educational expenses for participant, spouse or children
4. Amounts necessary to prevent eviction from principal residence or mortgage foreclosure

Individual Retirement Accounts: A retirement account set up by individuals to save money for retirement while gaining certain tax advantages.

Roth Individual Retirement Accounts: An individual retirement account using after-tax contributions. Distributions of both investments and earnings that meet certain guidelines can be withdrawn tax-free from Roth IRAs.

Keogh Plans: A retirement plan available to self-employed individuals, partnerships, and small corporations to invest money for retirement for the owner and employees.

Simplified Employer Pensions: A retirement plan available to small employers whereby the business owner makes contributions for employees into individual retirement accounts.

Savings Incentive Match Plan for Employees: A retirement plan available to small employers whereby employees can deposit a portion of their compensation to a retirement account and defer taxes until withdrawn.

NOT INCLUDED IN THE EXEMPTION

Lump Sum Distributions that are not rolled over into a new plan or taken for hardship reasons should not receive the exemption.

Savings accounts, life insurance annuities, savings bonds, stocks, capital gains from sale of a business or property, Social Security benefits, or any other similar accounts not generally recognized as a pension plan should not receive the exemption.

Thank you,

Neal Kedzie
State Representative
43rd Assembly District

What about "offered by an employer" or an IRA

Individual retirement annuities. Individual retirement annuities are annuity or endowment contracts issued by an insurance company to individual participants [IRC Sec. 408(b)]. The contract must be nonforfeitable and must contain no life insurance element. The annual premium on behalf of an individual may not exceed $2,000. Also, payout provisions similar to those above apply here.

¶1336 TAX ON IRA DISTRIBUTIONS

Generally, you are taxed on traditional IRA payouts as ordinary income in the year you actually receive the cash payments [IRC Sec. 408(d)]. No tax is due on withdrawals to the extent they are allocable to your original nondeductible contributions [¶1330(c)]. The allocation is based on a ratio of your nondeductible contributions to the total balance in all of your traditional IRAs. As discussed in ¶1337, distributions from Roth IRAs generally are tax free.

You can withdraw nondeductible contributions completely tax-free (i.e., no allocation between deductible and nondeductible contributions) at any time up to the tax return deadline, including extensions, for the year the contribution was made. However, you must withdraw all earnings attributable to the contributions as well [IRC Sec. 408(d)(4)].

> **NOTE:** IRA distributions are not eligible for capital gains treatment, or the special 10-year averaging rule available to retirement plan participants. However, an IRA distribution is income eligible for the credit for the elderly and disabled [¶2403].

(a) Premature IRA Distributions Subject to 10 Percent Penalty Tax.

Premature distributions are amounts you withdraw from your IRA before you are age 59½ [IRC Sec. 72(t)(2)(A)(i)]. These are subject to a 10 percent nondeductible excise tax.

The 10 percent early withdrawal penalty tax applies to actual as well as "deemed" distributions [IRC Sec. 72(t)(1); Reg. Sec. 1.408-10(f)]. Thus, if you benefit from a "prohibited transaction" with the money in the IRA account which could include borrowing money from the IRA or using the IRA as a security for a loan, the 10 percent penalty tax can apply to the amount of the benefit [IRC Sec. 408(e)(2)(A)]. An investment by an IRA or any other qualified plan in collectibles (art, rugs, antiques, gems, stamps, coins, alcoholic beverage or other item of tangible personal property specified in IRC Sec. 408(m)) will be treated as a distribution of the cost of the item and will result in the 10 percent penalty tax. You can invest your IRA savings in platinum coins as well as gold, silver, platinum or palladium bullion of a specified minimum fineness without paying the 10 percent penalty [IRC Sec. 408(m)].

Exception to 10 percent penalty tax for IRA distributions. The 10 percent penalty does not apply to the following IRA withdrawals:

Post-age 59½ distributions. Distribution made from your IRA after reaching age 59½ are not subject to the 10 percent penalty tax [IRC Sec. 72(t)(2)(A)(i)];

Taxpayer death. Distributions made from an IRA because the taxpayer establishing the IRA has died [IRC Sec. 72(t)(A)(ii)];

Taxpayer disability. Distributions made because the taxpayer establishing the IRA is totally or permanently disabled [IRC Sec. 72(t)(2)(A)(iii)]. You will be considered "disabled" for these purposes if you are unable to engage in any substantial gainful activity because of a medically determinable physical or mental impairment which can be expected to result in death or be of a long-continued and indefinite duration [IRC Sec. 72(m)(7)]. The term "substantial gainful activity" refers to the activity, or a comparable activity in which the plan participant customarily engaged prior to the impairment [Reg. Sec. 1.72-17A(f)(1)]. Examples approved by the IRS include the following: loss of use of two limbs; certain progressive diseases, which result in physical loss or atrophy of a limb, such as diabetes, multiple sclerosis, or Buerger's disease; diseases of the heart, lungs, or blood vessels; inoperative and progressive cancer; brain damage; mental diseases such as psychosis; nearly total vision loss; permanent and total loss of speech; and, total deafness uncorrectible by a hearing aid [Reg. Sec. 1.72-17A(f)(2)(i)-(ix)].

Clinical depression is not a disability that will excuse a premature IRA withdrawal.[1] Reg. Sec. 1.72-17A(f)(2)(vi) defines a mental disease as one that requires continued institutionalization or constant supervision. Periodic visits with a psychiatrist are not enough. Without proof that a mental illness requires constant supervision, you will be unable to prove that it qualifies as a disability for purposes of eliminating the 10 percent premature penalty imposed on premature IRA withdrawals.

> **Example:** Betty is age 45 but after a car accident is totally and permanently disabled. She can withdraw her IRA savings without paying the 10 percent early withdrawal penalty because the distributions are made because she is totally or permanently disabled [IRC Sec. 72(t)(2)(A)(iii)].[2]

Medical expenses. Distributions from an IRA will not be subject to the ten percent penalty tax if the proceeds are used to pay for medical expenses in excess of 7.5 percent of your adjusted gross income [IRC Sec. 72(t)(2)(B)];

Health insurance for unemployed. Distributions from an IRA will not be subject to the 10 percent penalty tax if the proceeds are used to pay health insurance premiums for unemployed individuals [IRC Sec. 72(t)(2)(D)]. To avoid the penalty tax in this situation, the taxpayer must have received unemployment compensation for 12 consecutive weeks under federal or state law and the distributions must be made during any tax year in which the unemployment compensation is paid or during the next tax year. This exception does not apply to distributions made after an individual's reemployment if he or she has been employed for at least sixty days after the initial separation from service [IRC Sec. 72(t)(2)(D)(ii)].

Series of periodic payments after leaving your job: If you are younger than age 59½, you may avoid the 10 percent penalty tax if you begin receiving regular distributions from your IRA after leaving your job and the distributions are part of a series of "substantially equally periodic payments" made (not less frequently than annually) over your life or the joint lives of you and your beneficiary [IRC Sec. 72(t)(2)(A)(iv)]. The periodic payments must begin after the employee terminates his employment [IRC Sec. 72(t)(3)(B)]. The IRS has three approved methods for calculating the amount of your distribution.[3]

We will only discuss Method 1 here, because it produces the smallest distribution. According to this method, the payment may be determined based on the employee's life expectancy or the joint life and last survivor life expectancy of the employee and beneficiary. To calculate the distribution, the account balance at the end of the prior year is divided by the participant's life expectancy, or the joint life expectancies found in the tables under Reg. Sec. 1.72-9. If the series of substantially equal periodic payments is subsequently modified within 5 years of the date of the first payment (or prior to age 59½, the exception to the 10 percent tax under IRC Sec. 72(t)(2)(A)(iv) does not apply, and the taxpayer's tax for the year of modification is increased by an amount equal to the tax which, but for the exception under IRC Sec. 72(t)(2)(A)(iv), would have been imposed, plus interest for the deferral period [IRC Sec. 72(t)(4)].

Penalty-free distributions for first-time homebuyers: The 10% penalty tax does not apply to distributions from an IRA used to pay for first-time homebuyer expenses (up to $10,000 lifetime limit) if the IRA distribution is used within 120 days to pay costs of acquiring, constructing, or reconstructing, the first-time homebuyer's principal residence (a first-time homebuyer is anybody who has not had an ownership interest in a principal residence within the 2-year period ending on the date of the acquisition) [IRC Sec. 72(t)(2)(F)]. The withdrawn money can be used to reconstruct a principal residence for you, your spouse, child, grandchild, or ancestor of you or your spouse. Note that the $10,000 figure is a lifetime cap and not an annual amount that can be withdrawn each year [IRC Sec. 72(t)(8)(B)].

Penalty-free distributions to pay for higher education: You are able to make penalty-free withdrawals from your IRA in order to pay for "qualified higher education expenses." This includes tuition at a college, university, vocational school, graduate school, or any other post-secondary educational institution as well as fees, books, supplies, and equipment required for enrollment or attendance at a postsecondary educational institutional or vocational education school [IRC Sec. 72(t)(7)(A)]. The expenses must be incurred by you, your spouse, or your child or grandchild or your spouse's child or grandchild [IRC Sec. 72(t)(7)(A)]. The beneficiary of distributions made from the IRA and used for education expenses need not be your dependent. You may also make penalty-free withdrawals to pay for room and board if the student is enrolled at least half-time.

In order to prevent you from claiming a double benefit, IRC Sec. 72(t)(7)(B) provides that the amount of "qualified higher education expenses" that you will be able to pay for with penalty-free IRA proceeds will be reduced by the amounts of any qualified scholarship, education assistance allowance, or any other excludable payments for education expenses (but not gifts or inheritances).

You must report pre-age 59½ distributions on Form 5329 unless the entire amount was rolled over or the payer has indicated on Form 1099-R that one of the exceptions applies.

IRS levies on IRAs: Effective for distributions after December 31, 1999, the 10 percent penalty will not apply to amounts withdrawn from any employer-sponsored retirement plan or IRA that is subject to levy by the IRS [IRC Sec. 72(t)(2)(A)(vii)]. This exception applies only if the plan or IRA is levied by the IRS. It does not apply, for example, if the taxpayer withdraws funds to pay taxes in the absence of a levy, in order to release a levy on other interests, or in any other situation.

(b) Mandatory IRA withdrawals at age 70½: You may not keep your money invested in your traditional IRA forever. By April 1 of the year following the year in which you turn 70½, you must begin making annual required minimum distributions, or RMDs, from your traditional IRA. If you fail to make the RMD, you will face a 50 percent excise tax on amounts that you should have withdrawn [IRC Sec. 401(a)(9)]. The penalty is reported to the IRS on Form 5329. In each succeeding year, the RMD must be made on or before December 31.

Example: You reach age 70½ on November 15, 2000. You must make your RMD from your IRA by April 1, 2001, which is the year following the year in which you turned 70½. You must also make an RMD for the year 2001, which is the *first* year after the year in which you reached age 70½, by December 31, 2001. Your next RMD will be December 31, 2002.

➤ **PRACTICE TIP** Roth IRAs are not subject to mandatory distribution rules. This is one of the reasons that the Roth IRA has become so popular with investors [¶1337].

If you have several IRA accounts, you may take the total required minimum distribution from only one of the accounts or from several of them. It would be wise to withdraw the amount from the investment earning the least amount of income for you.

There are two ways to withdraw the balance in your IRA(s) as follows:

1. You can either withdraw your entire IRA account balance by April 1 of the year following the year in which you reach age 70½ with a big tax hit in year of withdrawal; or

2. You can begin making "periodic distributions" of your IRA account balance by April 1 of the year following the year in which you reach age 70½ with the tax burden spread over a number of years.

If you opt for the periodic distribution method, you should follow a five-step process discussed below.

Step 1: Compute your IRA account balance. Your IRA account balance is the amount in the IRA at the end of the immediately preceding year with the following adjustments:

- You increase the account balance by any contributions for the immediately preceding year that were made in the year for which the minimum distribution is being figured.
- When you figure the minimum distribution for the second distribution year only, you reduce the IRA account balance by any RMD made for the first distribution year, which is the year that the owner reached age 70½. The following year is considered the second distribution year.

Step 2: Compute your life expectancy: Divide the IRA account balance as of the close of business on December 31 of the preceding year by one of the following applicable life expectancies:

- The life expectancy of IRA owner. This is called a single life expectancy and it is also used if the beneficiary is the owner's estate or a charitable organization. When a revocable trust is named as the beneficiary of the IRA, use the life expectancy of the trust beneficiary in determining the amount of the RMD.
- The life expectancies of the IRA owner and his or her designated beneficiary, who is the individual named to receive the money left in the IRA when the owner dies. If the owner has named more than one beneficiary, use the life expectancy of the oldest beneficiary with the shortest life expectancy. Keep in mind that an IRA owner may not use his own joint life expectancy and that of a beneficiary who is more than 10 years younger than he or she is, unless the beneficiary is his or her spouse. This means that a nonspouse beneficiary 10 years younger than the IRA owner may be named as the beneficiary, but his or her actual age for purposes of making the calculation will be limited to 10 years younger than the IRA owner.

Example: Grandma is 71½ years old this year and she names 10 year old Grandson as the beneficiary of her IRA. For purposes of figuring joint life and last survivor expectancy, Grandson is considered to be 61 years old.

If the owner of the IRA dies before distributions have begun, use the remaining life expectancy of the designated beneficiary.

To determine life expectancies, refer to the life expectancy tables in Appendix E of IRS Publication 590. Table I includes the single life expectancy tables and Table II includes the joint life and last survivor life expectancy tables.

Some retirees may have some maneuvering room if they want to keep the taxable RMD as small as possible. For example, they can lengthen the payout period by naming a younger beneficiary with a long life expectancy. Even if a beneficiary of the same age is named, the joint life expectancy will be longer than the single one. The maximum age differential for a beneficiary under age 60, other than a spouse, is 10 years. There is no limit if your spouse is your

State of Wisconsin
2001 – 2002 LEGISLATURE

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2001 BILL

NOTE The exemption in the bill also applies to a distribution from a retirement plan that is used for certain medical expenses, first-time home buyer expenses, certain higher education expenses, and amounts needed to prevent eviction from a principal residence or mortgage foreclosure.

AN ACT *to create* 71.05 (1) (am) of the statutes; **relating to:** exempting from 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 all of these pension plans, the exemption applies only to persons who were members of or retired from the plans as of December 31, 1963.

This bill exempts from taxation any amount of payments received each year by an individual from a retirement plan, if such payments are not already exempt from taxation. The exemption in the bill includes all qualified pension, profit–sharing, and stock bonus plans under the Internal Revenue Code (IRC), deferred compensation plans offered by state and local governments and tax–exempt organizations under the IRC, self–employed plans, tax–sheltered annuities, plans that are not qualified under the IRC, and individual retirement accounts.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

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:

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

71.05 **(1)** (am) *Pension income.* Except for a payment that is exempt under par. (a) or that is exempt as a railroad retirement benefit, any amount of payments received each year by an individual from a retirement plan, including a plan that is included in sections 401 to 409 or section 457 of the Internal Revenue Code and any amount that is withdrawn from a retirement plan for one or more of the following reasons:

Note to Ed.: all new

1. The payment of medical expenses of the plan's participant, his or her spouse, or his or her dependent who is claimed under section 151 (c) of the Internal Revenue Code, to the extent that the payments exceed 7.5% of the participant's federal adjusted gross income.

2. Amounts used to pay for first–time home buyer expenses, up to $10,000, if the distribution is used within 120 days to pay the costs of acquiring, constructing, or reconstructing the first–time home buyer's principal residence.

3. Qualified higher education expenses, as that term is used in section 72 (t) (7) of the Internal Revenue Code, for the plan's participant, his or her spouse, or his or her dependent who is claimed under section 151 (c) of the Internal Revenue Code.

4. Amounts that are necessary to prevent eviction from the participant's principle residence or mortgage foreclosure

SECTION 2. **Initial applicability.**

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

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB–3369/3dn
MES:kmg:pg

to prevent them from being too broad

limitations

Representative Kedzie:

all new

For the hardship withdrawal exemptions in s. 71.05 (1) (am) 1. to 4. in the bill, I tried to tie the exemptions to provisions of the Internal Revenue Code. Are these OK? Section 71.05 (1) (am) 1., for example, is based on an exception to the 10% penalty tax for certain IRA distributions. See section 72 (t) (2) (B) of the IRC.

Subdivision 2., relating to home buyers, is based on section 72 (t) (2) (F) of the IRC. The department of revenue may need to promulgate rules relating to a "first-time home buyer" if the IRC is not cross-referenced directly.

The exemption in subd. 3. for qualified higher education expenses in the bill does not cover grandchildren, as does the IRC in section 72 (t) (7), on which it is based

The exemption in subd. 4. seems to be a little bit vague, but I couldn't find a comparable provision in the IRC. Do you have any more precise information on the "amounts necessary to prevent eviction, ..." to which you would like the exemption to apply?

You may want the department of revenue to review the bill to see how they would interpret it and what rules they think may be necessary to promulgate.

AMZ

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB–3369/3dn
MES:kmg:jf

June 9, 2001

Representative Kedzie:

For the hardship withdrawal exemptions in s. 71.05 (1) (am) 1. to 4. in the bill, I tried to tie the exemptions to provisions of the Internal Revenue Code to prevent them from being too broad. Are these limitations OK? Section 71.05 (1) (am) 1., for example, is based on an exception to the 10% penalty tax for certain IRA distributions. See section 72 (t) (2) (B) of the IRC.

Subdivision 2., relating to home buyers, is based on section 72 (t) (2) (F) of the IRC. The department of revenue may need to promulgate rules relating to a "first–time home buyer" if the IRC is not cross–referenced directly.

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The exemption in subd. 4. seems to be a little bit vague, but I couldn't find a comparable provision in the IRC. Do you have any more precise information on the "amounts necessary to prevent eviction..." to which you would like the exemption to apply?

You may want the department of revenue to review the bill to see how they would interpret it and what rules they think may be necessary to promulgate.

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266–0129
E–mail: marc.shovers@legis.state.wi.us

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

June 9, 2001

MEMORANDUM

To: Representative Kedzie

From: Marc E. Shovers, Senior Legislative Attorney

Re: LRB-3369/3 Individual income tax exemption for all pension income

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

__✓__ JACKET FOR ASSEMBLY _____ JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-0129 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
REFERENCE SECTION: (608) 266-0341
FAX: (608) 266-5648

STEPHEN R. MILLER
CHIEF

July 9, 2001

MEMORANDUM

To: Representative Kedzie

From: Marc E. Shovers, Sr. Legislative Attorney, (608) 266–0129

Richard A. Champagne, Legislative Attorney, (608) 266–9930

Subject: Technical Memorandum to **2001 AB 454** (LRB 01–3369/3)

We received the attached technical memorandum relating to your bill. This copy is for your information and your file. If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

MEMORANDUM

July 9, 2001

TO: Marc Shovers
Richard Champagne
Legislative Reference Bureau

FROM: Dennis Collier
Department of Revenue

SUBJECT: Technical Memorandum on AB 454 - Individual Income Tax Exemption for All Pension Income

The Department wishes to make several comments regarding AB 454:

1. It is unclear what is meant by the term "retirement plan." A broad interpretation of the term could include social security income, capital gains from the sale of stocks, or a farmer's sale of land at retirement as distributions from retirement plans. The sponsor may wish to clarify the term by referring to individual retirement account (IRA) distributions and pensions and annuities that are reported on lines 15b and 16b of the 2000 federal Form 1040. An additional reference would also be needed for section 457 plans and nonqualified deferred compensation, which are reported as wages on the federal income tax return.

2. If it is the sponsor's intent to exempt disability income paid from a retirement plan, sec. 71.05(6)(b)4, which provides a disability income exclusion of up to $5,200, should be amended to prevent a double deduction.

3. Because this bill makes all payments from a retirement plan exempt from tax, sec. 71.05 (1)(am)1 to 4 is redundant. Distributions from a retirement plan would be exempt from tax regardless of the reason.

4. Sec. 71.83(1)(a)6 states that a person who receives a distribution from a retirement plan that is subject to a penalty for federal tax purposes is also subject to a Wisconsin penalty unless that income is exempt under sec. 71.05(1)(a). To avoid inconsistency, the sponsor may wish to amend sec. 71.83(1)(a)6 to provide the same exception for retirement income exempted under this proposal.

If you have questions regarding this technical memorandum, please contact Meredith Krejny at 261-8984.

DC:MK