LRB–2065/1
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# 2003 SENATE BILL 160

May 8, 2003 – Introduced by Senators KEDZIE, WIRCH, HANSEN, LEIBHAM, STEPP, KANAVAS, BRESKE and ROESSLER, cosponsored by Representatives OWENS, NASS, KERKMAN, J. FITZGERALD, M. LEHMAN, MUSSER, F. LASEE, LOTHIAN, NISCHKE, MONTGOMERY, LADWIG, LEMAHIEU, FREESE, J. WOOD, HAHN, JESKEWITZ, TOWNSEND, MCCORMICK, PETTIS, CULLEN, JENSEN, KREIBICH, LOEFFELHOLZ, HUNDERTMARK, ALBERS, PETROWSKI, BIES, WEBER and GUNDERSON. Referred to Joint Survey Committee on Tax Exemptions.

AN ACT ***to amend*** 71.05 (6) (b) 4. and 71.83 (1) (a) 6.; and ***to create*** 71.05 (1) (am) of the statutes; **relating to:** exempting from taxation retirement plan income received 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 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 certain amounts of payments or distributions received each year by an individual from a retirement plan, if such payments are not already exempt from taxation. The exemption in the bill relates to 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. The bill first applies to taxable year 2005, and the maximum allowable exemption is $2,500. The exemption amount increases each year from $2,500 to $5,000 in 2006, $10,000 in 2007, $15,000 in 2008, and $20,000 in 2009 and thereafter.

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.

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***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, one of the following amounts of payments or distributions 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:

1. For taxable years beginning after December 31, 2004, and before January 1, 2006, $2,500.

2. For taxable years beginning after December 31, 2005, and before January 1, 2007, $5,000.

3. For taxable years beginning after December 31, 2006, and before January 1, 2008, $10,000.

4. For taxable years beginning after December 31, 2007, and before January 1, 2009, $15,000.

5. For taxable years beginning after December 31, 2008, $20,000.

**SECTION 2.** 71.05 (6) (b) 4. of the statutes is amended to read:

71.05 **(6)** (b) 4. Disability payments other than disability payments that are paid from a retirement plan, the payments from which are exempt under sub. (1) (am), if the individual either is single or is married and files a joint return, to the extent those payments are excludable under section 105 (d) of the ~~internal revenue~~

~~code~~ Internal Revenue Code as it existed immediately prior to its repeal in 1983 by section 122 (b) of P.L. 98–21, except that if an individual is divorced during the taxable year that individual may subtract an amount only if that person is disabled and the amount that may be subtracted then is $100 for each week that payments are received or the amount of disability pay reported as income, whichever is less. If the exclusion under this subdivision is claimed on a joint return and only one of the spouses is disabled, the maximum exclusion is $100 for each week that payments are received or the amount of disability pay reported as income, whichever is less.

**SECTION 3.** 71.83 (1) (a) 6. of the statutes is amended to read:

71.83 **(1)** (a) 6. 'Retirement plans.' Any natural person who is liable for a penalty for federal income tax purposes under section 72 (m) (5), (q), (t), and (v), 4973, 4974, 4975, or 4980A of the ~~internal revenue code~~ Internal Revenue Code is liable for 33% of the federal penalty unless the income received is exempt from taxation under s. 71.05 (1) (a) or (am). The penalties provided under this subdivision shall be assessed, levied, and collected in the same manner as income or franchise taxes.

**(END)**