AN ACT to amend 71.52 (6) of the statutes; relating to: modifying the definition of income under the homestead tax credit.

Analysis by the Legislative Reference Bureau

Under current law, the definition of “income” under the homestead tax credit is the sum of Wisconsin adjusted gross income (AGI) and a number of items that are not otherwise includable in Wisconsin AGI, such as certain public assistance payments, nontaxable interest received on state and municipal bonds, and certain retirement benefits. The definition of “income” also specifically excludes certain items, such as gifts from individuals and certain cash reimbursements received under the federal Social Security Act.

This bill changes the definition of “income” under the homestead tax credit by specifically excluding from the calculation of income any payment or distribution that is received from a Roth individual retirement account that is established under federal law.

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. 71.52 (6) of the statutes is amended to read:
71.52 (6) “Income” means the sum of Wisconsin adjusted gross income and the following amounts, to the extent not included in Wisconsin adjusted gross income: maintenance payments (except foster care maintenance and supplementary payments excludable under section 131 of the Internal Revenue Code), support money, cash public assistance (not including credit granted under this subchapter and amounts under s. 46.27), cash benefits paid by counties under s. 59.53 (21), the gross amount of any pension or annuity (including railroad retirement benefits, all payments received under the federal social security act and veterans disability pensions), nontaxable interest received from the federal government or any of its instrumentalities, nontaxable interest received on state or municipal bonds, worker’s compensation, unemployment insurance, the gross amount of “loss of time” insurance, compensation and other cash benefits received from the United States for past or present service in the armed forces, scholarship and fellowship gifts or income, capital gains, gain on the sale of a personal residence excluded under section 121 of the Internal Revenue Code, dividends, income of a nonresident or part-year resident who is married to a full-year resident, housing allowances provided to members of the clergy, the amount by which a resident manager’s rent is reduced, nontaxable income of an American Indian, nontaxable income from sources outside this state and nontaxable deferred compensation. Intangible drilling costs, depletion allowances and depreciation, including first-year depreciation allowances under section 179 of the Internal Revenue Code, amortization, contributions to individual retirement accounts under section 219 of the Internal Revenue Code, contributions to Keogh plans, net operating loss carry-forwards and capital loss carry-forwards deducted in determining Wisconsin
adjusted gross income shall be added to “income”. “Income” does not include gifts from natural persons, cash reimbursement payments made under title XX of the federal social security act, payments or distributions received from an individual retirement account established under 26 USC 408A, surplus food or other relief in kind supplied by a governmental agency, the gain on the sale of a personal residence deferred under section 1034 of the internal revenue code Internal Revenue Code or nonrecognized gain from involuntary conversions under section 1033 of the internal revenue code Internal Revenue Code. Amounts not included in adjusted gross income but added to “income” under this subsection in a previous year and repaid may be subtracted from income for the year during which they are repaid. Scholarship and fellowship gifts or income that are included in Wisconsin adjusted gross income and that were added to household income for purposes of determining the credit under this subchapter in a previous year may be subtracted from income for the current year in determining the credit under this subchapter. A marital property agreement or unilateral statement under ch. 766 has no effect in computing “income” for a person whose homestead is not the same as the homestead of that person’s spouse.

SECTION 2. Initial applicability.

(1) This act first applies to claims filed for 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 claims filed for taxable years beginning on January 1 of the year following the year in which this subsection takes effect.