

2013 DRAFTING REQUEST

Bill

Received: 1/15/2013 Received By: mshovers
 Wanted: As time permits Same as LRB:
 For: Neal Kedzie (608) 266-2635 By/Representing: Doug
 May Contact: Drafter: mshovers
 Subject: Tax, Individual - dedct/sbtrct Addl. Drafters:
 Extra Copies:

Submit via email: YES
 Requester's email: Sen.Kedzie@legis.wisconsin.gov
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Expand and increase the tax exemption for individual retirement plan and IRA income

Instructions:

Redraft 2011 SB 29 (LRB -00182/2)

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/1				_____	srose 1/31/2013	srose 2/1/2013	State Tax

FE Sent For:

<END>

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INTRO

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/? mshovers

1/15/13 1/30/13 ph/13

FE Sent For:

1/30/13

<END>

MEMORANDUM

March 7, 2011

TO: Marc Shovers
Legislative Reference Bureau

FROM: Rebecca Boldt
Department of Revenue

SUBJECT: Technical Memorandum on Senate Bill 29: Expanding and Increasing the Tax Exemption for Retirement Plan Income Received by an Individual

The Department has the following concerns related to the bill:

The bill eliminates the age restriction for the retirement income exclusion. Thus young persons (even in their 20s) could withdraw amounts from their IRAs and such amounts would not be subject to tax or penalty. Is this the intent?

The initial applicability states for taxable years beginning on January 1, 2012. However, the elimination of the age and income restrictions first applies for taxable years beginning on January 1, 2013.

If you have any questions regarding this technical memorandum, please contact Brad Caruth at (608) 261-8984 or bradley.caruth@revenue.wi.gov.

cc: Senator Kedzie



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

1 EAST MAIN, SUITE 200
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION (608) 266-3561
REFERENCE SECTION (608) 266-0341
FAX (608) 264-6948

STEPHEN R. MILLER
CHIEF

March 16, 2011

MEMORANDUM

To: Senator Kedzie

From: Marc E. Shovers, Managing Attorney, (608) 266-0129

Subject: Technical Memorandum to **2011 SB 29** (LRB-0182/2) by **DOR**

We received the attached technical memorandum relating to your bill. This copy is for your information and your file.

The department's first point is a policy question and not a technical issue. The department's second point is a technical issue which I think should be addressed. I suggest deleting bill section 7, the initial applicability provision. I think that the in-text initial applicability provisions in bill sections one and two are all that are necessary.

If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.



State of Wisconsin
2011 - 2012 LEGISLATURE

1175/11



LRB-0182/2

MES:kpe&jld:ph

Thur (per request)

RMP

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2013 ~~2011~~ SENATE BILL 29

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SN 11
XRF 1

March 4, 2011 - Introduced by Senators KEDZIE, HOPPER, KAPRANKE, LAZICH, WIRCH and SCHULTZ, cosponsored by Representatives AUGUST, NASS, ZIEGELBAUER, SPANBAUER, VAN ROY, PRIDEMORE, PETERSEN, KERKMAN, NYGREN, RIVARD, BIES, HONADEL, J. OTT, MURSAU, KAPENGA, JACQUE, BROOKS, LEMARIEU and KAUFERT. Referred to Joint Survey Committee on Tax Exemptions.

regr

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 plan income
4 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 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

SENATE BILL 29

be eligible, the individual must be at least ^{of less than} 65 years old and have federal adjusted gross income (FAGI) ~~under~~ ^{2015 less than} \$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 to ~~2012~~ ²⁰¹⁴. Beginning with taxable year ~~2013~~ ²⁰¹⁵, the \$5,000 exemption for payments or distributions received from a qualified retirement plan or from certain individual retirement accounts may still be claimed, to the extent that such amounts are not already exempt from taxation, but 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. Under the bill, the exemption amount increases from \$5,000 to \$10,000 in ~~2014~~ ²⁰¹⁶ to \$15,000 in ~~2015~~ ²⁰¹⁷, and to \$20,000 in ~~2016~~ ²⁰¹⁸ and thereafter.

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:

^x
SECTION 1. 71.05 (1) (ae) (intro.) of the statutes is amended to read:

71.05 (1) (ae) *Pension, individual retirement income.* (intro.) Except for a payment that is exempt under par. (a), (am), or (an), or that is exempt as a railroad retirement benefit, for taxable years beginning after December 31, 2008, and before January 1, ~~2015~~ ²⁰¹⁵, up to \$5,000 of payments or distributions received each year by an individual from a qualified retirement plan under the Internal Revenue Code or from an individual retirement account established under 26 USC 408, if all of the following conditions apply:

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

71.05 (1) (af) *Pension income.* Except for a payment that is exempt under par. (a), (a[✓]m), or (a[✓]n), or that is exempt as a railroad retirement benefit, one of the following amounts of payments or distributions received each year by an individual

SENATE BILL 29

1 from a qualified retirement plan under the Internal Revenue Code or from an
2 individual retirement account established under 26 USC 408:

3 1. For taxable years beginning after December 31, ~~2012~~²⁰¹⁴, and before January
4 1, ~~2014~~²⁰¹⁶, \$5,000.

5 2. For taxable years beginning after December 31, ~~2013~~²⁰¹⁵, and before January
6 1, ~~2015~~²⁰¹⁷, \$10,000.

7 3. For taxable years beginning after December 31, ~~2014~~²⁰¹⁶, and before January
8 1, ~~2016~~²⁰¹⁸, \$15,000.

9 4. For taxable years beginning after December 31, ~~2015~~²⁰¹⁷, \$20,000.

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

11 71.05 (1) (am) *Military retirement systems*. All retirement payments received
12 from the U.S. military employee retirement system, to the extent that such payments
13 are not exempt under par. (a) ~~or~~, (ae), or (af).

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

15 71.05 (1) (an) *Uniformed services retirement benefits*. All retirement payments
16 received from the U.S. government that relate to service with the coast guard, the
17 commissioned corps of the national oceanic and atmospheric administration, or the
18 commissioned corps of the public health service, to the extent that such payments are
19 not exempt under par. (a), (ae), (af), or (am).

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

21 71.05 (6) (b) 4. Disability payments other than disability payments that are
22 paid from a retirement plan, the payments from which are exempt under sub. (1) (ae),
23 (af), (am), and (an), if the individual either is single or is married and files a joint
24 return, to the extent those payments are excludable under section 105 (d) of the
25 Internal Revenue Code as it existed immediately prior to its repeal in 1983 by section

SENATE BILL 29

1 122 (b) of P.L. 98-21, except that if an individual is divorced during the taxable year
2 that individual may subtract an amount only if that person is disabled and the
3 amount that may be subtracted then is \$100 for each week that payments are
4 received or the amount of disability pay reported as income, whichever is less. If the
5 exclusion under this subdivision is claimed on a joint return and only one of the
6 spouses is disabled, the maximum exclusion is \$100 for each week that payments are
7 received or the amount of disability pay reported as income, whichever is less.

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

9 71.83 (1) (a) 6. 'Retirement plans.' Any natural person who is liable for a
10 penalty for federal income tax purposes under section 72 (m) (5), (q), (t), and (v), 4973,
11 4974, 4975, or 4980A of the Internal Revenue Code is liable for 33% of the federal
12 penalty unless the income received is exempt from taxation under s. 71.05 (1) (a) ~~or~~,
13 (ae), ^v or (af). The penalties provided under this subdivision shall be assessed, levied,
14 and collected in the same manner as income or franchise taxes.

15 **SECTION 7. Initial applicability.**

16 (1) This act first applies to taxable years beginning on January 1, 2012.

17 (END)

Rose, Stefanie

From: Wheaton, Doug
Sent: Friday, February 01, 2013 4:11 PM
To: LRB.Legal
Subject: Draft Review: LRB -1175/1 Topic: Expand and increase the tax exemption for individual retirement plan and IRA income

Please Jacket LRB -1175/1 for the SENATE.