



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-1235/P2
KP:emw

DOA:.....Quinn, BB0241 - Increase disability income exclusion

FOR 2023-2025 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TAXATION

INCOME TAXATION

Increasing disability income subtraction and expanding eligibility

This bill increases and expands the individual state income tax subtraction, or deduction, for disability payments received by a person under the age of 65 who is retired and who is permanently and totally disabled. Under the bill, beginning in tax year 2023, up to \$5,500 of disability payments may be subtracted annually from an individual's taxable income. In addition, the bill expands eligibility for claiming the subtraction to individuals having a federal adjusted gross income under \$30,000 or under \$60,000 if married.

Under current law, up to \$5,000 of disability payments may be subtracted, and to be eligible, a person must have federal adjusted gross income under \$20,200 or under \$25,400 if married and both spouses are disabled.

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:

SECTION 1. 71.05 (6) (b) 4. (intro.) of the statutes is amended to read:

71.05 (6) (b) 4. (intro.) ~~Disability~~ For taxable years beginning before January 1, 2023, disability payments other than disability payments that are paid from a retirement plan, the payments from which are exempt under subd. subds. 54. and 54m. and sub. (1) (am) and (an), if the individual either is single or is married and files a joint return and is under 65 years of age before the close of the taxable year to which the subtraction relates, retired on disability, and, when the individual retired, was permanently and totally disabled. In this subdivision, “permanently and totally disabled” means an individual who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. An individual shall not be considered permanently and totally disabled for purposes of this subdivision unless proof is furnished in such form and manner, and at such times, as prescribed by the department. The exclusion under this subdivision shall be determined as follows:

****NOTE: This is reconciled s. 71.05 (6) (b) 4. (intro.). This SECTION has been affected by drafts with the following LRB numbers: -1235/P1 and -1234/P1.

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

71.05 (6) (b) 4m. For taxable years beginning after December 31, 2022, disability payments other than disability payments that are paid from a retirement plan, the payments from which are exempt under subds. 54. and 54m. and sub. (1)

(am) and (an), if the individual is under 65 years of age before the close of the taxable year to which the subtraction relates, retired on disability, and, when the individual retired, was permanently and totally disabled. In this subdivision, “permanently and totally disabled” means an individual who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. An individual shall not be considered permanently and totally disabled for purposes of this subdivision unless proof is furnished in such form and manner, and at such times, as prescribed by the department. The exclusion under this subdivision shall be determined as follows:

a. If the individual is single or files as a head of household and the individual’s federal adjusted gross income in the year to which the subtraction relates is less than \$30,000, the maximum subtraction is \$5,500 or the amount of disability pay reported as income, whichever is less.

b. If the individual is married and is a joint filer and the couple’s federal adjusted gross income in the year to which the subtraction relates is less than \$60,000, the maximum subtraction is \$5,500 per spouse that is disabled or the amount of disability pay reported as income, whichever is less.

c. If the individual is married and files a separate return and the sum of both spouses’ federal adjusted gross income in the year to which the subtraction relates is less than \$60,000, the maximum subtraction is \$5,500 or the amount of disability pay reported as income, whichever is less.

***NOTE: This is reconciled s. 71.05 (6) (b) 4m. This SECTION has been affected by drafts with the following LRB numbers: -1235/P1 and -1234/P1.

(END)