

HOUSE BILL 300

Q3
HB 158/09 – W&M

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CF 01r1769

By: **Delegates Krebs, Boteler, Eckardt, Elliott, Frank, George, Haddaway, Impallaria, McComas, McDonough, Miller, Myers, Norman, Riley, Serafini, Shank, Shewell, Smigiel, and Sossi**

Introduced and read first time: January 27, 2010

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Fairness in Taxation for Retirees Act**

3 FOR the purpose of including income from certain retirement plans within a certain
4 subtraction modification allowed under the Maryland income tax for certain
5 individuals who are at least a certain age or who are disabled or whose spouse is
6 disabled; altering the determination of the maximum annual benefit under the
7 Social Security Act for purposes of determining a certain offset for a certain
8 subtraction modification; providing for the application of this Act; and generally
9 relating to a subtraction modification under the Maryland income tax for
10 certain individuals for certain retirement income.

11 BY repealing and reenacting, with amendments,
12 Article – Tax – General
13 Section 10–209
14 Annotated Code of Maryland
15 (2004 Replacement Volume and 2009 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article – Tax – General**

19 10–209.

20 (a) In this section[:

21 (1) “employee], “**QUALIFIED** retirement [system”] **PLAN**” means [a
22 plan]:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 [(i) established and maintained by an employer for the benefit of
2 its employees; and

3 [(ii)] **(1) A RETIREMENT PLAN** qualified under § 401(a), § 403, or
4 § 457(b) of the Internal Revenue Code; [and]

5 **[(2) “employee retirement system” does not include:**

6 (i) an individual retirement account or annuity under § 408 of
7 the Internal Revenue Code;

8 (ii) a Roth individual retirement account under § 408A of the
9 Internal Revenue Code;

10 (iii) a rollover individual retirement account;

11 (iv) a simplified employee pension under Internal Revenue Code
12 § 408(k); or

13 (v) an ineligible deferred compensation plan under § 457(f) of
14 the Internal Revenue Code.]

15 **(2) AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY UNDER §**
16 **408 OF THE INTERNAL REVENUE CODE;**

17 **(3) A ROTH INDIVIDUAL RETIREMENT ACCOUNT UNDER § 408A**
18 **OF THE INTERNAL REVENUE CODE;**

19 **(4) A SIMPLIFIED EMPLOYEE PENSION UNDER § 408(K) OF THE**
20 **INTERNAL REVENUE CODE; OR**

21 **(5) AN INELIGIBLE DEFERRED COMPENSATION PLAN UNDER §**
22 **457(F) OF THE INTERNAL REVENUE CODE.**

23 (b) Subject to subsection (d) of this section, to determine Maryland adjusted
24 gross income, if, on the last day of the taxable year, a resident is at least 65 years old
25 or is totally disabled or the resident’s spouse is totally disabled, an amount is
26 subtracted from federal adjusted gross income equal to the lesser of:

27 (1) [the cumulative or total annuity, pension, or endowment income
28 from an employee] **THE TOTAL INCOME FROM A QUALIFIED** retirement [system]
29 **PLAN** included in federal adjusted gross income **FOR THE TAXABLE YEAR;** or

1 (2) the maximum annual benefit under the Social Security Act
2 computed under subsection (c) of this section, less any payment received as old age,
3 survivors, or disability benefits under the Social Security Act, the Railroad Retirement
4 Act, or both.

5 (c) For purposes of subsection (b)(2) of this section, the Comptroller:

6 (1) shall determine the maximum annual benefit under the Social
7 Security Act allowed for an individual [who retired at age 65] for the prior calendar
8 year; and

9 (2) may allow the subtraction to the nearest \$100.

10 (d) Military retirement income that is included in the subtraction under §
11 10–207(q) of this subtitle may not be taken into account for purposes of the subtraction
12 under this section.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 July 1, 2010, and shall be applicable to all taxable years beginning after December 31,
15 2009.