

SENATE BILL 49

Q3
SB 123/22 – B&T

(PRE-FILED)

3lr0900

By: **Senator Brooks**

Requested: November 18, 2022

Introduced and read first time: January 11, 2023

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Subtraction Modification – Retirement Income**

3 FOR the purpose of including income from an individual retirement account or a certain
4 annuity within a certain subtraction modification for certain retirement income if
5 contributions to the account or annuity consist entirely of certain distributions from
6 an employee retirement system; and generally relating to a subtraction modification
7 under the Maryland income tax for retirement income.

8 BY repealing and reenacting, with amendments,
9 Article – Tax – General
10 Section 10–209
11 Annotated Code of Maryland
12 (2022 Replacement Volume)

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

15 **Article – Tax – General**

16 10–209.

17 (a) In this section:

18 (1) “employee retirement system” means a plan:

19 (i) established and maintained by an employer for the benefit of its
20 employees; and

21 (ii) qualified under § 401(a), § 403, or § 457(b) of the Internal
22 Revenue Code; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) “employee retirement system” does not include:

2 (i) **EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION,**
3 an individual retirement account or annuity under § 408 of the Internal Revenue Code;

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

6 (iii) [a rollover individual retirement account;

7 (iv)] a simplified employee pension under Internal Revenue Code §
8 408(k); or

9 [(v)] **(IV)** an ineligible deferred compensation plan under § 457(f) of
10 the Internal Revenue Code.

11 (b) Subject to subsections (d) and (e) of this section, to determine Maryland
12 adjusted gross income, if, on the last day of the taxable year, a resident is at least 65 years
13 old or is totally disabled or the resident’s spouse is totally disabled, or the resident is 55
14 years old and is a retired forest ranger, park ranger, or wildlife ranger of the United States,
15 the State, or a political subdivision of the State, an amount is subtracted from federal
16 adjusted gross income equal to the lesser of:

17 (1) the cumulative or total annuity, pension, or endowment income from an
18 employee retirement system included in federal adjusted gross income; or

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

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

23 (1) shall determine the maximum annual benefit under the Social Security
24 Act allowed for an individual who retired at age 65 for the prior calendar year; and

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

26 (d) (1) Military retirement income that is included in the subtraction under §
27 10–207(q) of this subtitle may not be taken into account for purposes of the subtraction
28 under this section.

29 (2) Public safety employee retirement income that is included in the
30 subtraction under § 10–207(mm) of this subtitle may not be taken into account for purposes
31 of the subtraction under this section.

32 (e) In the case of a retired forest ranger, park ranger, or wildlife ranger of the

1 United States, the State, or a political subdivision of the State, the amount included under
2 subsection (b)(1) of this section is limited to the first \$15,000 of retirement income that is
3 attributable to the resident's employment as a forest ranger, park ranger, or wildlife ranger
4 of the United States, the State, or a political subdivision of the State unless:

5 (1) the resident is at least 65 years old or is totally disabled; or

6 (2) the resident's spouse is totally disabled.

7 **(F) FOR PURPOSES OF THIS SECTION, A DISTRIBUTION FROM AN**
8 **INDIVIDUAL RETIREMENT ACCOUNT OR AN ANNUITY ESTABLISHED UNDER § 408 OF**
9 **THE INTERNAL REVENUE CODE SHALL BE TREATED AS INCOME FROM AN**
10 **EMPLOYEE RETIREMENT SYSTEM IF CONTRIBUTIONS TO THE INDIVIDUAL**
11 **RETIREMENT ACCOUNT OR ANNUITY CONSIST ENTIRELY OF THE TAX-FREE**
12 **ROLLOVER OF DISTRIBUTIONS FROM AN EMPLOYEE RETIREMENT SYSTEM.**

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
14 1, 2023, and shall be applicable to all taxable years beginning after December 31, 2022.