Taxation of Retirement Benefits

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2011

Maine. Public Law No. 2011-138 (House Bill 284) provides a state income tax exemption for annuity income made to the survivor of a deceased member of the military as the result of service in active or reserve components of the United States Army, Navy, Air Force, Marines or Coast Guard under a survivor benefit plan or reserve component survivor benefit plan pursuant to 10 United States Code, Chapter 73, to the extent the annuity income is included in federal adjusted gross income, effective for tax year 2011 and thereafter.

Michigan. Chapter 38, Laws of 2011 (House Bill 4361), increases personal income taxes on retirement income.
The bill restricts and restructures the retirement income tax exemptions. Under current law, Social Security, military, federal, state and local government retirement/retirement income is fully exempt. Private retirement benefits are exempt up to $45,120 single/$90,240 joint (Tax Year 2010). These levels are indexed to inflation. In Michigan, defined benefit plans, IRAs, and annuities are fully exempt. Also, 401(k) distributions attributable to employer contributions or to employee contributions that are matched by the employer are exempt, but distributions attributable to employee contributions that are not matched by the employer are currently subject to the state income tax, subject to the private retirement limits. In addition, 401(k)s with no employer match are not considered retirement income and therefore are completely subject to the income tax.
Under this legislation, the treatment of retirement income would depend upon a taxpayer's age (and the age of the older spouse for a joint return), as follows:

- Taxpayers born before 1946 would continue to have the same treatment of retirement and Social Security income as in current law, and could claim the personal exemptions for which they are eligible.
- Taxpayers born in 1946 and through 1952 could take an exemption of $20,000 for a single return and $40,000 for joint return against retirement income until age 67, and then could take that same exemption amount against all types of income. In addition, these taxpayers at any age could claim personal exemptions for which they were eligible and could exempt Social Security income. However, the $20,000/$40,000 exemption would not be available when total household resources exceed $75,000 for a single return or $150,000 for a joint return. (Further, taxpayers would not be eligible for the $20,000/$40,000 unrestricted deduction if they take the deduction for Armed Forces retirement income or income under the Railroad Retirement Act.)
- Taxpayers born after 1952 will receive no exemption for retirement income until reaching age 67, except for the Social Security exemption. Then, the taxpayer will have a choice between (1) the $20,000/40,000 exemption against all types of income, with no personal exemptions and with no additional exemption for Social Security, or (2) continuing the exemption for Social Security, along with the personal exemptions for which they were eligible. However, the $20,000/$40,000 exemption would not be available where total household resources exceeded $75,000 for a single return or $150,000 for a joint return. (Further, taxpayers would not be eligible for the $20,000/$40,000 unrestricted deduction if they took the deduction for Armed Forces retirement income or income under the Railroad Retirement Act.)

The legislation eliminates the dividends, interest, capital gains exemption received by seniors, but only for seniors born after 1945. Under current law, senior investment income up to $10,058 single/$20,115 joint (TY 2010, indexed to inflation) is exempt. This exemption would continue to apply to seniors born in 1945 and earlier.
Source: House Legislative Analysis, May 23, 2011
Other bills address additional technical details related to these changes. These bills (House Bills 4480-4484) would amend the State Employees Retirement Act, the Public School Employees Retirement Act, the Michigan Legislative Retirement System Act (for legislators), the Judges Retirement Act, and Public Act 339 of 1927, which provides for retirement allowances for employees of public libraries in cities over 250,000. Summaries of these bills are available on the Michigan Legislature's website.

Opponents of the taxation of retirement income raised the question of its constitutionality in light of the state constitution's language protecting pensions. In mid-June 2011, the Michigan Supreme Court granted Gov. Rick Snyder's request to consider the constitutionality of how pension income will be taxed beginning Jan. 1. Snyder is asking the seven justices to rule whether applying the personal income tax to the pension income of public retirees violates the state constitutional prohibition against impairing or diminishing a public pension benefit. Oral arguments are scheduled for September 7.

New Jersey. Senate Bill 2345, vetoed by the governor on February 18, 2011, would have expanded the amounts of personal income exempted from personal income tax for people over 62. It would have exempted income up to $100,000 and phased out the exemption for amounts between $100,000 and $110,000. The estimated revenue loss of the legislation was $62.4 million to $64.8 million in FY2012 and FY2013, with annual increases thereafter.

Tennessee. Chapter 396, Laws of 2011 (Senate Bill 261) increases exemptions from the Hall Income Tax (a tax on interest and dividends) for people over the age of 65 from a total income of $16,200, filing singly, to $26,200, and from $27,000 to $37,000 for those filing jointly.

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Montana. Chapter 382, Laws of 2009 (HB 315) increases the maximum pension and annuity income tax exclusion. Current law provides for an exemption of $3,600, reduced gradually for AGI in excess of $30,000. This act provides for an annual inflationary adjustment to the exclusion amount and the income cap, using 2009 as the base year.

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Colorado. Chapter 31, Laws of 2008 (HB 1179), authorizes the Department of Revenue to collect by distraint distributions payable by the public employees' retirement association to a member of the association when the member is liable for any state tax or license fee.

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Kansas. HB 2031 provides that for the taxable year beginning after December 31, 2006, amounts received as benefits under the federal social security act which are included in federal adjusted gross income of a taxpayer with federal adjusted gross income of $50,000 or less, whether such taxpayer's filing status is single, head of household, married filing separate or married filing jointly; and for all taxable years beginning after December 31, 2007, amounts received as benefits under the federal social security act which are included in federal adjusted gross income of a taxpayer with federal adjusted gross income of $75,000 or less, whether such taxpayer's filing status is single, head of household, married filing separate or married filing jointly.

Missouri. HB 444, effective January 1, 2007, authorizes an income tax deduction to be phased in over six years for Social Security benefits, Social Security disability benefits, and benefits received from a nonprivate retirement system for individuals 62 years of age or older. For 2007, a taxpayer can deduct 20% of his or her Social Security benefits; for 2008, 35%; for 2009, 50%; for 2010, 65%; for 2011, 80%; and for 2012 and thereafter, 100%. A single taxpayer with an adjusted gross income of $85,000 or less or a married taxpayer filing a combined return with an adjusted gross income of $100,000 or less will qualify for the maximum deduction.
If a taxpayer's adjusted gross income exceeds the income amount, the deduction will be decreased by $1 for every dollar in excess of the maximum. If a taxpayer receives both Social Security benefits and public retirement benefits, the maximum deduction for the publicly funded retirement benefits will be decreased by $1 for every dollar of Social Security benefits received by the taxpayer if the benefits are not included in his or her Missouri adjusted gross income.

The maximum deduction for the publicly funded retirement benefits is limited to the maximum Social Security benefits available for the tax year less any Social Security benefits not taxable to Missouri.

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Maryland. Chapter 226, Laws of 2006 (SB 22/HB 35), provides an exclusion of $5,000 of military retirement income for people retired from the U.S. armed forces or Maryland National Guard and specified other federal agencies after July 1, 1991, effective for tax year 2006 and thereafter. This exclusion cannot be taken in addition to the maximum pension exclusion generally available to Maryland residents.

Iowa. S.F. 2408 progressively reduces the amount of Social Security benefits taxable under Iowa law from tax years 2008 through 2014, at which time no Social Security benefits will be taxable under Iowa law. The act also provides a tax exclusion of $18,000 for a single taxpayer and $24,000 for married couples filing jointly or separately on a joint reform for tax years 2007 and 2008. The exclusion will increase to $24,000/$32,000 for tax year 2009 and following years. Social Security income is included in net income for the purposes of calculating the effect of the tax exclusions on Iowa tax liability.

West Virginia. SB 786 added an additional income tax modification for the tax year 2006 only of as much as $30,000 of severance wages for permanent termination through reduction in force and through no fault of employee. Reduction in force is defined as a net reduction of employees employed by the employer in WV, determined based on the total West Virginia employment of the employer's controlled group. The new provision also defines severance wages, controlled group and corporation for purposes of this limited modification.
W.Va. Code §11-21-12(c)(11)(i),(ii),(iii) & (iv). (SB786 (2006RS)-effective from passage).

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Kentucky. HB 272 fixes the state income tax pension exclusion at $41,110 for tax year 2006 and thereafter. The exemption will no longer be subject to an annual adjustment based on the consumer price index. It applies to benefits earned after January 1, 1998.

Oklahoma. SB 435 increased the amount of the retirement income exemption from $7,500 to $10,000 for public and private sector retirees. HB 1476 increased the amount of the military pension exemption to $10,000 or 50% of the individual's retirement benefits, whichever is greater.

Wisconsin. AB 100, the budget bill, as passed by the Legislature, would have phased in a full income tax exclusion for social security benefits over three years, starting with tax year 2007. The phase-in would have been implemented by reducing the currently taxable share of social security benefits by 30% in tax year 2007, 60% in tax year 2008, and 100% in tax year 2009 and thereafter.

The Governor's partial veto deletes the three-year phase-in of a full exclusion for social security benefits, which would have started in 2007, and provides, instead, a full exclusion for social security benefits starting in tax year 2008. Compared to AB 100, as passed by the Legislature, the partial veto is estimated to increase individual income tax revenues by $12,000,000 in 2006-07, and to reduce income tax revenues by $4,100,000 in 2007-08 and $24,100,000 in 2008-09.

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Georgia. Act No. 928 (H.B. 1313) increases the State of Georgia retirement income exclusion of taxable net income from any source for income tax purposes to $14,500 for taxable year beginning on or after January 1, 2002 and prior to January 1, 2003 and $15,000 for taxable years beginning on or after January 1, 2003.

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Georgia. HB 492 continued Georgia's program of exempting a portion of retirement income from any source from state income taxation. The exemption will rise incrementally from $14,500 in tax year 2002 to $65,000 in tax years beginning on or after January 1, 2007.

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Georgia. The retirement income exclusion was increased from $14,000 to $14,500 for tax year 2002 and to $15,000 for tax year 2003 for all taxpayers who are 62 years of age or older, or are totally and permanently disabled.

New Jersey. Continues phasing in the exclusion of retirement income from taxable income.

Wisconsin. The exclusion of military pension income from state income taxation, enacted in 2001, is effective for tax year 2002.

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2001

New Jersey. Exclusion of military pensions and survivor's benefits of those under age 62 from gross income for tax purposes. [The current gross income tax exemption applies only to those individuals over 62 years of age.] This bill takes effect immediately and will be retroactive to January 1, 2001. *A-1256.*

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Georgia. H.B. 1159 increased the income tax pension exclusion to $13,500 for tax year 2000 and to $14,000 for tax year 2001.

Maine. The first $6,000 of income from private and public pensions was exempted from state income tax. (budget bill)

West Virginia. S.B. 669 exempted the first $30,000 in income from U.S. military pensions from the state income tax.

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Colorado increased the amount of public and private pension and annuity income exempt from state income taxes from $20,000 to $24,000. *HB 99-1151*.

Delaware increased the income tax exclusion of income from dividends, interest, rents, employer pensions and qualified retirement plans for those age 60 and over from $5,000 to $12,500, beginning with tax year 1999. *SB 245*.

New Jersey increased the amount of public and private pension and annuity income exempt from state income taxes as follows:

- Tax year beginning before January 1, 2000: $10,000 for married filing jointly; $5,000 for married filing singly; $7,500 for an individual filing as a single taxpayer
- Tax year beginning after 1/1/2000 and before 1/1/2001: $12,500, $6,250, $9,375
- Tax year beginning after 1/1/2000 and before 1/1/2002: $15,000, $7,500, $11,250
- Tax year beginning after 1/1/2002 and before 1/1/2003: $17,500,.$8,750, $$13,125
- Tax year beginning after 1/1/2003: $20,000, $10,000, $15,000. *P.L. 1999, Chapter 177*.

South Carolina increased the income tax deduction for individual taxpayers over the age of 65 from $11,500 to $15,000, and for married taxpayers filing jointly, if both of them are over the age of 65, to $30,000, effective for tax year 1999. *Act 100, Part 2, Section 28*.

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