



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-4136/1
JK:cdc&emw

2023 ASSEMBLY BILL 386

August 29, 2023 - Introduced by Representatives STEFFEN, KATZMA, O'CONNOR, ALLEN, ARMSTRONG, AUGUST, BORN, BEHNKE, BINSFELD, CALLAHAN, DALLMAN, DITTRICH, DONOVAN, DUCHOW, EDMING, GOEBEN, GREEN, GUNDRUM, GUSTAFSON, HURD, S. JOHNSON, KRUG, KITCHENS, KURTZ, MACCO, MAGNAFICI, MAXEY, MELOTIK, MICHALSKI, MOSES, MURSAU, NEDWESKI, NOVAK, PENTERMAN, PETERSEN, PETRYK, PLUMER, PRONSCHINSKE, RETTINGER, RODRIGUEZ, ROZAR, SAPIK, SCHMIDT, SCHRAA, SNYDER, SORTWELL, SWEARINGEN, SUMMERFIELD, TITTL, TUSLER, VANDERMEER, VOS, WITTKE, ZIMMERMAN and OLDENBURG, cosponsored by Senators CABRAL-GUEVARA, BRADLEY, KNODL and JAGLER. Referred to Committee on Ways and Means.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to amend** 71.05 (1) (am), 71.05 (1) (an), 71.05 (6) (b) 4. (intro.), 71.05 (6)
2 (b) 54. (intro.), 71.06 (1q) (c), 71.06 (2) (i) 3., 71.06 (2) (j) 3. and 71.83 (1) (a) 6.;
3 and **to create** 71.05 (6) (b) 54m. and 71.05 (6) (b) 54mn. of the statutes; **relating**
4 **to:** lowering the individual income tax rates in the third bracket and increasing
5 and expanding the retirement income subtraction.

Analysis by the Legislative Reference Bureau

INDIVIDUAL INCOME TAX RATE

This bill decreases the individual income tax rate in the third tax bracket from 5.3 percent to 4.40 percent beginning with the 2023 tax year.

Under current law, there are four income tax brackets for single individuals, certain fiduciaries, heads of households, and married persons, and the brackets are indexed for inflation. The rate of taxation under current law for the lowest bracket for single individuals, certain fiduciaries, heads of households, and married persons is 3.50 percent of taxable income. The rate for the second bracket is 4.40 percent. The rate for the third bracket is 5.3 percent. And the rate for the highest bracket is 7.65 percent. Before bracket indexing, the four brackets for individuals, certain fiduciaries, and heads of households, to which the above rates apply, are as follows: 1) taxable income from \$0 to \$7,500; 2) taxable income exceeding \$7,500 but not exceeding \$15,000; 3) taxable income exceeding \$15,000 but not exceeding \$225,000; and 4) taxable income exceeding \$225,000.

ASSEMBLY BILL 386**RETIREMENT INCOME SUBTRACTION**

This bill increases and expands the individual state income tax subtraction for payments or distributions received from qualified retirement plans under the Internal Revenue Code or from certain individual retirement accounts. Under the bill, beginning in tax year 2023, up to \$100,000 of payments or distributions received from qualified retirement plans or certain individual retirement accounts may be subtracted annually from an individual's taxable income, if the individual is at least 67 years of age. If the individual and individual's spouse are both at least 67 years of age, the sum of the amount that the couple may subtract annually from their combined taxable income may not exceed \$150,000.

Under current law, up to \$5,000 of payments or distributions received by certain individuals from qualified retirement plans or from certain individual retirement accounts may be subtracted. To be eligible, the individual must be at least 65 years old and have federal adjusted gross income under \$15,000, or under \$30,000 if married.

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:

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

2 71.05 (1) (am) *Military retirement systems.* All retirement payments received
3 from the U.S. military employee retirement system, to the extent that such payments
4 are not exempt under par. (a) ~~or sub. (6) (b) 54.~~

5 **SECTION 2.** 71.05 (1) (an) of the statutes is amended to read:

6 71.05 (1) (an) *Uniformed services retirement benefits.* All retirement payments
7 received from the U.S. government that relate to service with the coast guard, the
8 commissioned corps of the national oceanic and atmospheric administration, or the
9 commissioned corps of the public health service, to the extent that such payments are
10 not exempt under par. (a) or (am) ~~or sub. (6) (b) 54.~~

11 **SECTION 3.** 71.05 (6) (b) 4. (intro.) of the statutes is amended to read:

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

14 **SECTION 4.** 71.05 (6) (b) 54. (intro.) of the statutes is amended to read:

15 71.05 (6) (b) 54. (intro.) Except for a payment that is exempt under sub. (1) (a),
16 (am), or (an), or that is exempt as a railroad retirement benefit, and except as
17 provided under subs. 54m. and 54mn., for taxable years beginning after December
18 31, 2020, up to \$5,000 of payments or distributions received each year by an
19 individual from a qualified retirement plan under the Internal Revenue Code or from
20 an individual retirement account established under 26 USC 408, if all of the
21 following conditions apply:

22 **SECTION 5.** 71.05 (6) (b) 54m. of the statutes is created to read:

23 71.05 (6) (b) 54m. a. Except for a payment that is exempt under sub. (1) (a),
24 (am), or (an), or that is exempt as a railroad retirement benefit, and except as
25 provided under subd. 54mn., for taxable years beginning after December 31, 2022,

ASSEMBLY BILL 386**SECTION 5**

1 the amount, up to the limit specified in subd. 54m. b., c., or d., whichever is
2 applicable, of the payments or distributions received each year from a qualified
3 retirement plan under the Internal Revenue Code or from an individual retirement
4 account established under 26 USC 408.

5 b. If the individual is at least 67 years of age before the close of the taxable year
6 to which the subtraction relates, the amount claimed by the individual under this
7 subdivision may not exceed \$100,000 for that taxable year.

8 c. If the individual is married and is a joint filer, and both spouses are at least
9 67 years of age before the close of the taxable year to which the subtraction relates,
10 the total amount claimed by the spouses under this subdivision may not exceed
11 \$150,000 for that taxable year.

12 d. If the individual is married and files a separate return and is at least 67 years
13 of age before the close of the taxable year to which the subtraction relates, the
14 amount claimed by each spouse as a subtraction under this subdivision may not
15 exceed \$75,000 for that taxable year.

16 e. The individual has not claimed any credit listed under s. 71.10 (4) for the
17 same taxable year for which the individual claimed the subtraction under this
18 subdivision.

19 **SECTION 6.** 71.05 (6) (b) 54mn. of the statutes is created to read:

20 71.05 (6) (b) 54mn. For taxable years beginning after December 31, 2022, for
21 an individual who is a part-year resident of this state, the amount that is calculated
22 by multiplying the applicable amount under subd. 54m. b., c., or d. by a fraction the
23 numerator of which is the individual's wages, salary, tips, unearned income, and net
24 earnings from a trade or business that are taxable by this state and the denominator
25 of which is the individual's total wages, salary, tips, unearned income, and net

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1 earnings from a trade or business. A nonresident of this state is not eligible to claim
2 the subtraction under subd. 54m.

3 **SECTION 7.** 71.06 (1q) (c) of the statutes is amended to read:

4 71.06 (1q) (c) On all taxable income exceeding \$15,000 but not exceeding
5 \$225,000, 6.27 percent, except that for taxable years beginning after December 31,
6 2020, and before January 1, 2023, 5.30 percent, and for taxable years beginning after
7 December 31, 2022, 4.40 percent.

8 **SECTION 8.** 71.06 (2) (i) 3. of the statutes is amended to read:

9 71.06 (2) (i) 3. On all taxable income exceeding \$20,000 but not exceeding
10 \$300,000, 6.27 percent, except that for taxable years beginning after December 31,
11 2020, and before January 1, 2023, 5.30 percent, and for taxable years beginning after
12 December 31, 2022, 4.40 percent.

13 **SECTION 9.** 71.06 (2) (j) 3. of the statutes is amended to read:

14 71.06 (2) (j) 3. On all taxable income exceeding \$10,000 but not exceeding
15 \$150,000, 6.27 percent, except that for taxable years beginning after December 31,
16 2020, and before January 1, 2023, 5.30 percent, and for taxable years beginning after
17 December 31, 2022, 4.40 percent.

18 **SECTION 10.** 71.83 (1) (a) 6. of the statutes is amended to read:

19 71.83 (1) (a) 6. 'Retirement plans.' Any natural person who is liable for a
20 penalty for federal income tax purposes under section 72 (m) (5), (q), (t), and (v), 4973,
21 4974, 4975, or 4980A of the Internal Revenue Code is liable for 33 percent of the
22 federal penalty unless the income received is exempt from taxation under s. 71.05
23 (1) (a) or (6) (b) 54., 54m., or 54mn. The penalties provided under this subdivision

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SECTION 10

1 shall be assessed, levied, and collected in the same manner as income or franchise
2 taxes.

3 (END)