



SPONSOR: Sen. Mantzavinos & Sen. Ennis & Sen. Brown &
Rep. Chukwuocha & Rep. Ramone
Sens. Lopez, S. McBride, Pettyjohn, Sokola; Reps.
Bolden, Brady, Bush, Hensley, Mitchell, D. Short,
Michael Smith, Yearick

DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE BILL NO. 188

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO EXCLUSION OF MILITARY
PENSIONS FROM TAXABLE INCOME.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 1106, Title 30 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 1106. Modifications.

4 (b) *Subtractions*. — There shall be subtracted from federal adjusted gross income:

5 (3) a. Amounts received as pensions by persons under age 60 from employers, the United States, the State or
6 any subdivision thereof, not to exceed \$2,000. For taxable years beginning on or after January 1, 1987, amounts
7 received as pensions by persons age 60 or older from employers, the United States, the State or any subdivision
8 thereof, not to exceed \$3,000;

9 b. 1. Amounts not to exceed \$2,000 received by persons under age 60 as pensions from employers, the
10 United States, the State or any subdivision, or

11 2. (A) Amounts not to exceed \$12,500 received by persons age 60 or older as pensions from
12 employers, the United States, the State or any subdivision or as eligible retirement income.

13 (B) For the purposes of this paragraph, “eligible retirement income” shall include distributions
14 received from qualified retirement plans defined in § 4974 of the federal Internal Revenue Code (“IRC”)
15 [26 U.S.C. § 4974] or a successor provision, cash or deferred arrangements described in IRC § 401(k)
16 [26 U.S.C. § 401(k)] or a successor provision, government deferred compensation plans described in IRC
17 § 457 [26 U.S.C. § 457] or a successor provision, dividends, capital gains, interest and rental income
18 from real property less deductible rental expenses. For purposes of this paragraph, eligible retirement
19 income received by spouses as joint tenants with right of survivorship or as tenants by the entirety shall
20 be deemed to have been received one-half by each;

21 c.1. The following amounts received by an individual as a military pension, if the amounts are greater
22 than those authorized under paragraph (b)(3)b.1. or (b)(3)b.2 of this section for the military pension:

23 (A) For taxable years beginning on or after January 1, 2022, but before January 1, 2023, an
24 amount equal to 25% of the individual's military pension.

25 (B) For taxable years beginning on or after January 1, 2023, but before January 1, 2024, an
26 amount equal to 50% of the individual's military pension.

27 (C) For taxable years beginning on or after January 1, 2024, but before January 1, 2025, an
28 amount equal to 75% of the individual's military pension.

29 (D) For taxable years beginning on or after January 1, 2025, an amount equal to 100% of the
30 individual's military pension.

31 2. For purposes of this paragraph (b)(3)c., "military pension" means a pension received as a result of
32 the individual's service in the armed forces of the United States, including the National Guard.

33 d. For purposes of this paragraph (b)(3), the subtraction authorized under paragraph (b)(3)c.1. of this
34 section is in addition to the subtraction authorized under paragraph (b)(3)b.1. and (b)(3)b.2. for amounts received
35 by an individual other than for a military pension.

SYNOPSIS

Of the 41 states with a state income tax, 21 states fully exempt military retirement pay from state income taxes and 16 states partially exempt military retirement pay.

Currently, Delaware exempts \$2,000 of pensions for those under 60 and \$12,500 of eligible retirement income, which includes pensions, for those 60 or older. In addition to the current exemptions, this Act phases in, over 4 years, an additional exemption for military pensions from state income taxation, regardless of age.

Author: Senator Mantzavinos