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Sen. Ennis & Rep. Chukwuocha & Rep. Dorsey Walker
& Rep. Ramone
Sens. Gay, Hansen, Hocker, Lawson, Lockman, Lopez,
S. McBride, Paradee, Pettyjohn, Pinkney, Poore,
Richardson, Sokola, Sturgeon, Townsend, Walsh, Wilson;
Reps. Bolden, Briggs King, Bush, Hensley, Mitchell,
D. Short, Michael Smith, Smyk, Yearick

DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1
FOR
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; For taxable years beginning before January 1, 2022:~~

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

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

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

15 ~~2. (A) Amounts not to exceed \$12,500 received by persons age 60 or older as pensions from~~
16 ~~employers, the United States, the State or any subdivision or as eligible retirement income. For taxable years~~
17 ~~beginning on or after January 1, 2022:~~

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1. For persons under age 60, the greater of:

A. Amounts received, not to exceed \$2,000, as pensions from employers, the United States, this State, or any subdivision of this State; or

B. Amounts received, not to exceed \$12,500, as a United States military pension.

2. For persons age 60 or older, amounts received, not to exceed \$12,500, as pensions from employers, the United States, this State, or any subdivision of this State, or as eligible retirement income.

~~(B)c.~~ For the purposes of ~~this paragraph~~, paragraph (b)(3) of this section, “eligible retirement income” ~~shall include~~ includes distributions received from qualified retirement plans defined in § 4974 of the federal Internal Revenue Code (“IRC”) [26 U.S.C. § 4974] or a successor provision, cash or deferred arrangements described in IRC § 401(k) [26 U.S.C. § 401(k)] or a successor provision, government deferred compensation plans described in IRC § 457 [26 U.S.C. § 457] or a successor provision, dividends, capital gains, ~~interest~~ interest, and rental income from real property less deductible rental expenses. For purposes of this paragraph ~~(b)(3)c.~~, eligible retirement income received by spouses as joint tenants with right of survivorship or as tenants by the entirety ~~shall be~~ is deemed to have been received one-half by each;

SYNOPSIS

This Act increases the \$2,000 pension exclusion otherwise available for military pensioners under age 60 to \$12,500, providing an incentive for military retirees under age 60 to locate in Delaware.

This Act is effective for tax years beginning on or after January 1, 2022.

Author: Senator Mantzavinos