SPONSOR: Sen. Buckson & Sen. Mantzavinos & Rep. Hilovsky
Sens. Brown, Cruce, Hansen, Hocker, Hoffner, Huxtable, Lawson, Lockman, Paradee, Pettyjohn, Pinkney, Poore, Richardson, Seigfried, Sokola, Sturgeon, Townsend, Walsh, Wilson; Reps. Berry, Carson, Chukwuocha, Gray, Griffith, Lambert, Ortega, D. Short, Michael Smith, K. Williams, Wilson-Anton

DELAWARE STATE SENATE
153rd GENERAL ASSEMBLY

SENATE BILL NO. 219
AS AMENDED BY
SENATE AMENDMENT NO. 1

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:

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

§ 1106. Modifications [For application of this section, see 83 Del. Laws, c. 338, § 2].

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

(3) a. For taxable years beginning before January 1, 2022:

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

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

b. For ~~taxable years beginning on or after January 1, 2022:~~ taxable years beginning on January 1, 2022, and ending before January 1, 2027:

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.

c. For the taxable year beginning on January 1, 2027:

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

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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 $15,000, as a United States military pension.

2. For persons age 60 or older, the greater of:

A. 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; or

B. Amounts received, not to exceed $15,000, as a United States military pension.

d. For the taxable year beginning on January 1, 2028:

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 $20,000, as a United States military pension.

2. For persons age 60 or older, the greater of:

A. 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; or

B. Amounts received, not to exceed $20,000, as a United States military pension.

e. For taxable years beginning on or after January 1, 2029:

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 $25,000, as a United States military pension.

2. For persons age 60 or older, the greater of:

A. 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; or

B. Amounts received, not to exceed $25,000, as a United States military pension.

~~e.~~ f. For the purposes of this paragraph (b)(3):

1. A. "Eligible retirement income" 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, and rental income from real property less deductible rental expenses.

B. For purposes of this paragraph ~~(b)(3)c.,~~ (b)(3)f., eligible retirement income received by spouses as joint tenants with right of survivorship or as tenants by the entirety is deemed to have been received ½ by each.

2. "United States military pension" means a pension received as a result of an individual's service in the Army, Navy, Air Force, Marine Corps, Space Force, Coast Guard, the commissioned corps of the National Oceanic and Atmospheric Administration, the commissioned corps of the Public Health Service, or the National Guard.

3. The dollar limits of the subtraction modifications specified in this paragraph (b)(3) apply individually to each spouse who is receiving a United States military pension on a joint return. The total subtraction modification may not exceed twice the relevant limit.

4.A. A person who is age 60 or older is eligible for the subtraction under this paragraph (b)(3) only if one of the following applies:

I. For a person who is age 60 or older and legally domiciled in this State before January 1, 2027, the person is legally domiciled in this State for at least 3 years.

II. For a person who is age 60 or older and legally domiciled in this State on or after January 1, 2027, the person is legally domiciled in this State for at least 5 years.

B. For purposes of this paragraph (b)(3)f.4. of this section, a person is legally domiciled in this State if the person is a "resident individual" under § 1103 of this title.

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