

Maryland Income Tax
ADMINISTRATIVE RELEASE

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Subject: Military Retirement Income

I. General

In 1989, the Maryland legislature passed a law exempting up to \$2,500 of military retirement income if certain conditions are satisfied, such as age, military status, and income level. The law, codified in § 10-207(q) of the Tax-General Article, is effective for all taxable years beginning after December 31, 1989.

In 2006, the legislature enacted Senate Bill 22 (Chapter 226, Acts of 2006), which amended Tax General § 10-207(q) to increase the subtraction modification from \$2,500 to \$5,000. This Act further amended Tax-General § 10-207(q) to define “Military Service”, eliminate the age restriction and the required status as an enlisted member of the military, and eliminate any reduction of the subtraction based on federal adjusted gross income. Because of elimination of the requirement that the subtraction could only be claimed by an individual who had been an enlisted member of the military, the subtraction may be claimed for military retirement income received by a surviving spouse as a result of the military service of the deceased spouse. This change applied to all taxable years beginning after December 31, 2005.

This act also amended Tax-General § 10-209 to provide that the military retirement income that is included in the subtraction modification under Tax-General § 10-207(q) may not be taken into account for purposes of the subtraction modification under Tax-General § 10-209.

In 2007, the legislature enacted House Bill 392 (Chapter 553, Acts of 2007), which amended Tax-General § 10-207(q) to remove the restriction limiting the subtraction to persons separated from employment on or after July 1, 1991, for former active duty members of the Commissioned Corps of the Public Health Service, the National Oceanic and Atmospheric Administration, or the Coast and Geodetic Survey. This amendment is effective for all taxable years beginning after December 31, 2006.

II. Military Service

The term “Military Service” means:

1. Induction into the armed forces of the United States for training and service under the Selective Training and Service Act of 1940 or a subsequent act of a similar nature;
2. Membership in a reserve component of the Armed Forces of the United States;
3. Membership in an active component of the Armed Forces of the United States;
4. Membership in the Maryland National Guard; or
5. Active duty with the Commissioned Corps of the Public Health Service, the National Oceanic and Atmospheric Administration, or the Coast and Geodetic Survey.

III. Exclusion

In addition to the benefits provided under § 10-207(q) of the Tax-General Article, an exclusion is also allowed under Tax-General § 10-209. This section provides for an exclusion applicable to all individuals who retired at age 65 or older and who receive an annuity, pension, or endowment income from an employee retirement system included in federal adjusted gross income. An individual may be entitled to the benefits under both sections of the law. Thus, an individual who qualifies under § 10-207(q) may exclude a portion of military retirement income and may also be eligible to exclude military and other qualifying retirement income, as computed under § 10-209.

IV. Examples

Examples of the operation of §§ 10-207(q) and 10-209 follow:

- A. An individual, age 56, retires in 1995 as an enlisted member of the Coast Guard. The individual receives \$6,000 military retirement

income. The individual would exclude, as a subtraction modification under Tax-General § 10-207(q), \$5,000 of the retirement income. Since the individual is not 65 years of age, no other part of the pension income would be excludable under § 10-209.

B. Same as A, except that the individual is 65 years of age at the time of retirement. The individual receives no social security benefits. The individual would exclude \$5,000 under § 10-207(q) and, in addition, may be eligible to exclude up to \$1,000 as a pension exclusion under § 10-209.

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