

Maryland Income Tax
ADMINISTRATIVE RELEASE

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Subject: Military Retirement Income

In 1989 Maryland passed a law exempting up to \$2,500 of military retirement income if certain conditions are satisfied. The law, codified in §10-207(q) of the Tax-General Article, is effective for all taxable years beginning after December 31, 1989. It provides a subtraction of up to \$2,500 of military retirement income received by an individual during the taxable year, if the individual:

1. is at least 55 years old on the last day of the taxable year; and
2. was an enlisted member of the military at the time of retirement.

The law also reduces the eligible subtraction as federal adjusted gross income arises. The maximum excludable amount of \$2,500: (1) is reduced by 50% of the amount by which federal adjusted gross income exceeds \$17,500; and (2) is reduced to zero if federal adjusted gross income exceeds \$22,500.

The term "military" as used in the law, has the same meaning as the term "armed forces" as defined in Title 10, §101 of the United States Code Annotated. Under subsection (a)(4) of this section, "the term 'armed forces' means the Army, Navy, Air Force, Marine Corps and Coast Guard." Subsection (b)(6) of the same section provides that "the term 'enlisted member' means a person in an enlisted grade." The term "enlisted member" does not include a commissioned or warrant officer. Such officers, therefore, do not qualify for the exclusion.

In addition to the benefits provided under §10-207(q) of the Tax-General Article, an exclusion is allowed under §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 exclude military retirement income, as computed under §10-209, without taking into account the exclusion under §10-207(q).

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's adjusted gross income is \$17,000. The individual would exclude, as a subtraction modification, \$2,500 of the retirement income. Since the individual is not 65 years of age, no other part of the pension income could 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 \$2,500 under §10-207(q) and, in addition, may be eligible to exclude up to \$6,000 as a pension exclusion under §10-209.

C. Same as A, except that the individual, while originally entering the armed forces as an enlisted member, retires as an officer. No subtraction modification would be allowed under §10-207(q). However, when the individual reaches 65 years of age, the pension exclusion under §10-209 would be allowed.

D. Same as A, except the individual's federal adjusted gross income is \$19,500. The amount of the subtraction modification under §10-207(q) is \$1,500 (\$2,500 less 50% of \$2,000 which is the excess of federal adjusted gross income over \$17,500). If the individual was over 65 years of age, an additional exclusion of up to \$6,000 would be allowed under §10-209.

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