3-13-95 Sponsor added

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WAYS AND MEANS

HOUSE FILE 359

BY MARTIN Sponsor added Hanson 3/13/95

Passed House, Date ____________ Passed Senate, Date ____________

Vote: Ayes ______ Nays _______ Vote: Ayes ______ Nays _________

Approved ____________________________

A BILL FOR

An Act relating to the taxation of certain retirement income received for the purposes of state individual income tax, and to the filing of claims for credit or refund under the state individual income tax by retired federal employees as a result of the unconstitutional taxation of federal pensions, and providing an applicability date.

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

HF 359

TLSB 2289HH 76

sc/sc/14

Sec. 1. Section 422.7, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 32. For a person who is disabled, or is fifty-five years of age or older, or is the surviving spouse of an individual or a survivor having an insurable interest in an individual who would have qualified for the exemption under this subsection for the tax year, subtract, to the extent included, the total amount of a governmental or other pension, retirement pay, annuity, or other similar periodic payment made under a plan maintained or contributed to by an employer, or maintained or contributed to by a self-employed person as an employer, up to a maximum of three thousand dollars for a person who files a separate state income tax return for a tax year beginning in the 1996 calendar year, and up to a maximum of six thousand dollars for a husband and wife who file a joint state income tax return for a tax year beginning in the 1996 calendar year. For a tax year beginning in the 1997 calendar year, subtract, to the extent included, the total amount for a person who files a separate state income tax return, up to a maximum of six thousand dollars, and for a husband and wife who file a joint state income tax return, up to a maximum of twelve thousand dollars. For tax years beginning on or after January 1, 1998, for a person who files a separate state income tax return or for a husband and wife who file a joint state income tax return, subtract, to the extent included, the total amount of a governmental or other pension, retirement pay, annuity, or other similar periodic payment made under a plan maintained or contributed to by an employer. However, a surviving spouse who is not disabled or fifty-five years of age or older can only exclude the amount of annuities or other similar periodic payments received as a result of the death of the other spouse.

Sec. 2. Section 422.73, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Notwithstanding subsection 2, a claim for credit or refund of individual income tax paid for any tax year beginning on or after January 1, 1985, and before January 1, 1989, is considered timely if filed with the department on or before April 30, 1996, if the taxpayer's claim is the result of the unconstitutional taxation of federal pension benefits based upon the decision in Davis v. Michigan Department of Treasury, 489 U.S. 803, 109 S. Ct. 1500 (1989).

A taxpayer entitled to a credit or refund of tax paid under this subsection shall receive an amount equal to ninety-five percent of the credit or refund plus interest with interest not accruing after January 12, 1994. The claim for credit or refund shall be made on the income tax return for the tax year beginning in the 1995 calendar year. If the taxpayer does not owe tax or the credit is in excess of the tax computed, the taxpayer may claim a refund of the excess or carry forward the excess credit to the following tax year. A credit carried forward shall be used or a refund of the remaining credit given for the tax year beginning in the 1996 calendar year.

Sec. 3. APPLICABILITY. Section 1 of this Act applies to tax years beginning on or after January 1, 1996.

EXPLANATION

This bill allows certain persons to deduct all types of pension income in computing income for tax purposes. For a tax year beginning in the 1996 calendar year, the bill allows a deduction of pension income of up to a maximum of $3,000 for a person who files a separate return and $6,000 for a husband and wife who file a joint return. For a tax year beginning in the 1997 calendar year, the bill allows a deduction of pension income of up to a maximum of $6,000 for a person who files a separate return and $12,000 for a husband and wife who file a joint return. For tax years beginning on or after January 1, 1998, the total amount of pension income may be deducted for a person who files a separate return or for a husband and wife who file a joint return.

This exemption for pension income applies to tax years beginning on or after January 1, 1996.

The bill also provides that a claim for refund of taxes imposed on federal retirement pensions filed by April 30, 1996, is timely filed for taxes imposed for the 1985, 1986, 1987, and 1988 tax years. The taxpayer is entitled to 95 percent of the credit or refund plus interest with no interest accruing after January 12, 1994. The credit and refund must be used or refunded to the taxpayer for the tax years prior to the 1997 tax year. A recent Iowa supreme court decision held that retired federal employees could retroactively claim a refund on state individual income taxes unlawfully imposed on their pensions if the claim was timely filed.