



SPONSOR: Rep. Baumbach & Sen. Paradee & Sen. Sokola
Reps. Bentz, Brady, Chukwuocha, Q. Johnson, Lynn,
Matthews, Mitchell, Osienski, Viola; Sens. Delcollo,
Townsend

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL NO. 80

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO TAXES ON PERSONAL INCOME.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

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

§ 1106. Modifications.

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

(3)a. Amounts received as pensions by persons ~~under age 60~~ from employers, the United States, the State or any subdivision thereof, not to exceed \$2,000. ~~For taxable years beginning on or after January 1, 1987, amounts received as pensions by persons age 60 or older from employers, the United States, the State or any subdivision thereof, not to exceed \$3,000~~ The amount subtracted from federal adjusted gross income permitted under this subparagraph a. shall be available to persons:

1. Under age 61 in tax years beginning after December 31, 2019 and before January 1, 2021;

2. Under age 62 in tax years beginning after December 31, 2020 and before January 1, 2022;

3. Under age 63 in tax years beginning after December 31, 2021 and before January 1, 2023;

4. Under age 64 in tax years beginning after December 31, 2022 and before January 1, 2024; and

5. Under age 65 in tax years beginning after December 31, 2023.

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

~~2-(A)b.~~ b. Amounts not to exceed \$12,500 received by persons ~~age 60 or older~~ as pensions from employers, the United States, the State or any subdivision or as eligible retirement income. The amount subtracted from federal adjusted gross income permitted under this subparagraph b. shall be available to persons:

1. Age 61 or over in tax years beginning after December 31, 2019 and before January 1, 2021;
2. Age 62 or over in tax years beginning after December 31, 2020 and before January 1, 2022;
3. Age 63 or over in tax years beginning after December 31, 2021 and before January 1, 2023;
4. Age 64 or over in tax years beginning after December 31, 2022 and before January 1, 2024; and
5. Age 65 or over in tax years beginning after December 31, 2023.

~~(B)~~c. For the purposes of subparagraph b. of this paragraph, "eligible retirement income" shall include 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. For purposes of this paragraph, eligible retirement income received by spouses as joint tenants with right of survivorship or as tenants by the entirety shall be deemed to have been received one-half by each;

Section 2. Amend § 1110, Title 30 of the Delaware Code, by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 1110 Personal ~~exemptions and~~ credits.

~~(a) For tax years ending before January 1, 1996, a resident shall be allowed an exemption of \$1,250 for each exemption to which that resident is entitled for the taxable year for federal income tax purposes. Resident persons age 60 or over shall be allowed one additional personal exemption.~~

~~(b)~~a) For tax years beginning after December 31, 1995 and before January 1, 2020, resident individuals shall be allowed a personal credit against the individual's tax otherwise due under this chapter in the amount of:

(1) \$110 for each personal exemption to which such individual is entitled for the taxable year for federal income tax purposes; plus

(2) An additional \$110 in the case of each resident person age 60 or over.

(b) For tax years beginning after December 31, 2019, resident individuals shall be allowed a personal credit against the individual's tax otherwise due under this chapter in the amount of:

(1) \$110 for each personal exemption to which such individual is entitled for the taxable year for federal income tax purposes; plus

(2) An additional \$110 in the case of each resident person:

a. Age 61 or over in tax years beginning after December 31, 2019 and before January 1, 2021;

b. Age 62 or over in tax years beginning after December 31, 2020 and before January 1, 2022;

c. Age 63 or over in tax years beginning after December 31, 2021 and before January 1, 2023;

d. Age 64 or over in tax years beginning after December 31, 2022 and before January 1, 2024; and

e. Age 65 or over in tax years beginning after December 31, 2023.

(c) In no event shall the credit allowed under ~~subsection (b)~~ of this section exceed the tax otherwise due under this chapter.

Section 3. Amend § 1117, Title 30 of the Delaware Code, by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 1117 Earned income tax credit.

(a)(1) ~~An~~ For any tax year beginning prior to January 1, 2020, an individual who is a resident of this State shall be entitled to a nonrefundable credit against the individual's tax otherwise due under this chapter in the amount of 20% of the corresponding federal earned income credit allowed pursuant to § 32 or successor provision of the Internal Revenue Code [26 U.S.C. § 32].

(2) For any tax year beginning after December 31, 2019, an individual who is a resident of this State shall be entitled to a credit against the individual's tax under this chapter in an amount based on a percentage of the corresponding federal earned income credit allowed pursuant to § 32 or successor provision of the Internal Revenue Code [26 U.S.C. § 32]. The individual will be permitted to claim a credit that is the more beneficial to the individual of the following amounts:

a. 20% of the corresponding federal earned income tax credit, not to exceed the tax otherwise due under this chapter, or

b. 4.5% of the corresponding federal earned income tax credit, of which the amount that exceeds the tax otherwise due under this chapter shall be paid to the individual in the form of a tax refund.

(b) In the case of spouses who file a joint federal return but who elect to determine their Delaware taxes separately, the credit allowed under subsection (a) of this section may only be used by the spouse with the greater tax otherwise due, computed without regard to this credit.

80 (c) In no event shall the credit allowed under subsection (a)(1) of this section exceed the tax otherwise due under
81 this chapter.

SYNOPSIS

Sections 1 and 2 of this Act raise the eligibility age, from 60 to 65 in one-year increments over a five-year period, for the up to \$12,500 retirement income exclusion and the extra \$110 age-based personal credit. Anyone eligible for these age-based benefits in the year of enactment would remain eligible under this legislation and eligibility for an up to \$2,000 pension exclusion would be extended to persons under age 65.

Section 3 of this Act modifies Delaware's Earned Income Tax Credit (EITC) to allow recipients to choose between a non-refundable credit of up to 20% of the value of the corresponding federal EITC or a refundable EITC credit of up to 4.5% of the value of the corresponding federal EITC to be applied against their Delaware Personal Income Taxes.