Wisconsin Department of Revenue

How Your Retirement Benefits Are Taxed

Publication 126 (02/24)

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IMPORTANT CHANGES

Use this publication in preparing your 2023 tax return. There are no substantive differences between the 2022 and 2023 versions of this publication.

1. INTRODUCTION

Wisconsin's income tax treatment of retirement benefits received by a resident of Wisconsin is generally the same as the federal tax treatment. However, there are differences.

This publication discusses the differences between the federal and Wisconsin income tax treatment of retirement benefits. It also covers withholding on retirement benefits and penalties on retirement plans.

This publication does not discuss in detail the federal income tax treatment of retirement benefits. If you need information on the federal tax treatment, the following publications are available from the Internal Revenue Service (IRS) by calling 1-800-829-3676 or from the IRS website at irs.gov.

No.	Title
554	Tax Guide for Seniors
560	Retirement Plans for Small Business (SEP, SIMPLE, and Qualified Plans)
575	Pension and Annuity Income
590-B	Distributions from Individual Retirement Arrangements (IRAs)
721	Tax Guide to U.S. Civil Service Retirement Benefits
915	Social Security and Equivalent Railroad Retirement Benefits
939	General Rule for Pensions and Annuities

2. DEFINITIONS

The following definitions apply in this publication.

"Retirement benefits" includes pensions, annuities, tax-sheltered annuities, distributions from qualified or nonqualified employee plans, and distributions from IRAs, Keoghs, SEPs, SARSEPs, and SIMPLE plans.

"Qualified employee plan" is an employer's stock bonus, pension, or profit-sharing plan that is for the exclusive benefit of employees or their beneficiaries. This plan must meet federal Internal Revenue Code (IRC) requirements.

"Nonqualified employee plan" is an employer's plan that does not meet federal IRC requirements.

"Domicile" is the permanent legal home you intend to use for an indefinite or unlimited period, and to which, when absent, you intend to return. It is not always where you presently live. You can be physically present or residing in one state but maintain a domicile in another. "Domicile" is often referred to as "legal residence." You can have only one domicile at a time.

"Resident" is an individual who is domiciled in Wisconsin.

"Nonresident" is an individual who is not domiciled in Wisconsin.

"Part-year resident" is an individual who is domiciled in Wisconsin for part of the taxable year.

3. WISCONSIN TREATMENT GENERALLY SAME AS FEDERAL

The amount of your retirement benefits that are taxable for federal income tax purposes are also taxable for Wisconsin. This is true even though the retirement benefit may be due to services performed in another state. Exceptions to this general rule are discussed in Part 4 below.

Example 1: You were a Wisconsin resident for all of 2023. Prior to becoming a Wisconsin resident, you lived and worked as a teacher in Illinois for 30 years. You are receiving a pension based on your teaching services in Illinois. The amount of your pension that is taxable on your federal income tax return is also taxable on your Wisconsin income tax return.

Example 2: You were a Wisconsin resident for all of 2023. During 2023 you received a distribution of $60,000 from an IRA account at a Florida bank. You established the IRA when you were a Florida resident. The $60,000 is taxable both on your 2023 federal income tax return and your Wisconsin income tax return.

4. EXCEPTIONS

Although the following items are taxable on your federal return, they may be partially or totally excluded from Wisconsin income tax.

How you report the difference in taxable amounts on your Wisconsin income tax return depends on which form you use to file your return. Report any difference as follows:

- Form 1 — Include as an addition or subtraction, as appropriate, when completing Schedule AD, *Additions to Income*, or Schedule SB, *Subtractions from Income*.
- Form 1NPR — Consider the difference when completing the Wisconsin column of Form 1NPR or Schedule M, *Additions to and Subtractions from Income*.

Exception: See Item G on page 8. This difference requires you to file Wisconsin Schedule I, *Adjustments to Convert 20XX Federal Adjusted Gross Income and Itemized Deductions to the Amounts Allowable for Wisconsin*.

A. Railroad Retirement Benefits

Federal tax treatment

Railroad retirement benefits fall into two categories, tier 1 and tier 2 benefits. Part of the tier 1 benefit is the "Social Security Equivalent Benefit." This part is treated as a social security benefit. The rest of the tier 1 benefit and the tier 2 benefit are treated as a pension or annuity.

Wisconsin tax treatment

Railroad retirement benefits you receive from the U.S. Railroad Retirement Board are not taxable by Wisconsin. This is true regardless of whether the benefits are taxed federally as a social security benefit or as a pension or annuity. Federal law prohibits states from taxing railroad retirement benefits.

Information on claiming a subtraction for railroad retirement benefits that have been included in your federal adjusted gross income is available in the instructions for your Wisconsin income tax form.

B. Social Security Benefits

Federal tax treatment

Up to 85% of your social security benefits may be taxable.

Wisconsin tax treatment

Social security benefits are not taxable by Wisconsin.

C. Lump-Sum Distribution Reported on Federal Form 4972

Federal tax treatment

If you received a lump-sum distribution from an employer's qualified retirement plan, you may be able to elect optional methods of figuring the tax on the distribution. Federal Form 4972, *Tax on Lump-Sum Distributions*, is used when you choose the 20% capital gain election or the 10-year tax option.

Wisconsin tax treatment

Income from a lump-sum distribution is taxable by Wisconsin. If you reported a lump-sum distribution on federal Form 4972, you must also include the distribution in Wisconsin income. When computing Wisconsin income, you must add both the capital gain part and the taxable amount under the 10-year tax option from federal Form 4972 to your federal adjusted gross income.

Note: You may not report any portion of a lump-sum distribution as a capital gain on Wisconsin Schedule WD, *Capital Gains and Losses*. The distribution is taxable as ordinary income.

Full-year Wisconsin residents must file their Wisconsin income tax returns on Form 1 if federal Form 4972 was used to compute tax on a lump-sum distribution. If you were a part-year resident of Wisconsin and received the lump-sum distribution while you resided in Wisconsin, you must report the taxable lump-sum distribution on Form 1NPR.

D. Exempt Retirement Benefits

Military and uniformed services retirement benefits

The following retirement benefits are exempt from Wisconsin income tax:

- Payments from the U.S. military retirement system (including payments from the Retired Servicemen's Family Protection Plan or the Survivor Benefit Plan). These are retirement payments from the Defense Finance and Accounting Service (DFAS). DFAS pays military retirees and their surviving spouses and other family members.
- Retirement payments from the U.S. government that relate to service with the Coast Guard, the commissioned corps of the National Oceanic and Atmospheric Administration, or the commissioned corps of the Public Health Service.

Other exempt retirement benefits

Payments received from the retirement systems listed on the next page are exempt from Wisconsin income tax if:

(1) You were retired from the system before January 1, 1964, or

(2) You were a member of the system as of December 31, 1963, retiring at a later date, and payments you receive are from an account that was established before 1964, or

(3) You are receiving payments from the system as the beneficiary of an individual who met either condition 1 or 2.

The specific retirement systems are:

Local and state retirement systems:

- Milwaukee City Employees
- Milwaukee City Police Officers
- Milwaukee Fire Fighters
- Milwaukee Public School Teachers
- Milwaukee County Employees
- Milwaukee Sheriff
- Wisconsin State Teachers

Federal civilian employee retirement systems:

Only payments from the federal Civil Service Retirement System (CSRS) may qualify.

Example 1: You began teaching in Wisconsin in 1960. You were a member of the Wisconsin State Teachers Retirement System (WSTRS) continuously from 1960 until your retirement in 2000. You are receiving monthly retirement benefits from the Wisconsin Department of Employee Trust Funds based on your membership in the WSTRS. Because you were a member of the WSTRS as of December 31, 1963, and your retirement benefits are paid from an account established before 1964, your retirement benefit is exempt from Wisconsin income tax.

Example 2: You began employment with the Milwaukee public school system in 1958. Upon retirement, you received benefits from the Early Retirement Supplement and Benefit Improvement Plan. The supplemental benefits, even though they may be dispensed by one of the retirement systems listed above, are not payments from one of the specified retirement funds or systems, but are payments provided by the City of Milwaukee. Thus, the supplemental benefits do not qualify for the exemption.

Account must be established before 1964

Only payments from accounts established *before* 1964 qualify for the exemption.

Payments from accounts established after 1963 do *not* qualify for the exemption. Payments from an account established after 1963 are taxable even if you repurchased previously forfeited pre-1964 service. The exercise of the right to purchase previously forfeited creditable service establishes creditable service to use toward calculating your annuity; it does not reestablish membership in the retirement system.

Example 1: You were a member of the Wisconsin State Teachers Retirement System from 1959 through 1963. You left teaching after 1963 and withdrew the allowable contribution from your retirement account, completely closing the account. You later returned to teaching and a new account was established for you in the retirement system. Any retirement benefits from the new account established after 1963 do *not* qualify for the exemption.

Example 2: The facts are the same as in Example 1 except that in order to increase the amount of your retirement benefit, you chose to purchase the previously forfeited creditable service. Your retirement benefits still do *not* qualify for the exemption.

Example 3: You served in the U.S. Navy from 1951 to 1955. In 1964 you began working for the U.S. Postal Service. At that time, you became a member of the federal Civil Service Retirement System (CSRS), and an account was established for you. Upon your retirement, your four years of military service were used in the computation of your civil service retirement benefit. As a result, your retirement computation date, including the military service, is a date in 1960. Retirement benefits from your account in the CSRS do *not* qualify for the exemption because the benefits are paid from an account established after December 31, 1963. The military service was counted as creditable service to use toward calculating your annuity; it does not establish membership in the retirement system.

Benefits must be based on membership

Only benefits based on qualified membership in the specified local, state, and federal retirement systems are exempt. Any portion of your retirement benefit based on membership in other retirement systems is taxable.

The following formula may be used to determine the exempt portion that you may subtract.

$$\frac{\text{Years of creditable service in an exempt plan}}{\text{Total years of creditable service}} \times \text{Annuity included in federal income} = \text{Portion of annuity that is exempt}$$

Note: If you received separate Forms 1099-R for the taxable and exempt portions of your annuity, you may use that information instead of the formula.

Example 1: You were employed as a teacher and were a member of the Wisconsin State Teachers Retirement System (WSTRS) from 1960 to 1965. From 1966 until retirement, you were employed by a state agency in a nonteaching capacity and were a member of the Wisconsin Retirement System. You receive an annuity from the Department of Employee Trust Funds based on employment in both retirement systems. Only the portion of the annuity attributable to the WSTRS is exempt from Wisconsin income tax. Use the above formula to determine the exempt portion of your annuity.

Example 2: You served in the U.S. Army from 1960-1980. You began receiving a military retirement benefit in 1980. In 1983 you began working for the U.S. Postal Service. You retired from the Postal Service and elected to combine your 20 years of military service with your 19 years of service for the Postal Service. As a result, you receive a single retirement benefit from the federal Civil Service Retirement System (CSRS). You no longer receive a retirement benefit from the military retirement system.

Although your military retirement benefit qualifies for the exemption, the retirement benefit you receive from your Postal Service employment does not because you were not a member of the CSRS as of December 31, 1963. Only the portion of your annuity that is attributable to your military retirement benefit is exempt from Wisconsin income tax. Use the above formula to determine the exempt portion of your annuity.

Tax-sheltered annuity benefits

Any payments from the retirement systems listed on page 6 that you receive as a result of having made additional contributions for a tax-sheltered annuity do *not* qualify for the exemption.

Example: You are a federal employee and make contributions to a Thrift Savings Plan. The contributions are matched to some extent by the government. All contributions to the Thrift Savings Plan are made using *before* tax dollars. Distributions from the Thrift Savings Plan are tax-sheltered annuity benefits and are taxable by Wisconsin.

E. Subtraction For Up to $5,000 of Retirement Benefits

If you meet certain requirements, you may subtract all or a portion of a distribution from a qualified retirement plan or an individual retirement account (IRA). The maximum amount that is subtracted from income is $5,000.

To qualify for the subtraction, you must meet the following conditions:

- Are at least 65 years of age before the close of the taxable year
- If single or head of household, federal adjusted gross income is less than $15,000
- If married and filing a joint return, the couple's federal adjusted gross income is less than $30,000
- If married and filing a separate return, the sum of both spouses' federal adjusted gross income is less than $30,000

The $5,000 subtraction does not apply to distributions from retirement plans where the distribution is exempt under another provision of law. See Part 4.A. and D. for information on exempt retirement benefits.

The subtraction applies separately to each spouse. If both spouses qualify and have taxable income from a qualified retirement plan or an IRA, up to $10,000 may be subtracted on a joint return.

F. Disability Retirement Benefits

If you are retired on permanent and total disability and your disability income is taxable on your federal income tax return, you may be able to exclude up to $5,200 of your disability income on your Wisconsin income tax return.

To qualify, you must meet the following conditions:

- You were under age 65 on December 31 of the taxable year
- You did not reach mandatory retirement age before January 1 of the taxable year, (the age when your employer's retirement program would have required you to retire)
- You were permanently and totally disabled when you retired
- You did not, in any year prior to 1984, choose to treat your disability income as a pension instead of taking the exclusion
- Your federal adjusted gross income is less than $20,200 ($25,400 if married and both spouses are eligible)

If you are a full-year resident of Wisconsin, claim the exclusion by filing your Wisconsin income tax return on Form 1. If you are a part-year resident, claim the exclusion by filing on Form 1NPR. You must include Schedule 2440W, *Disability Income Exclusion*, with your return. If you were married at the end of the taxable year, you must file a joint return.

See Schedule 2440W for further information on the disability income exclusion.

G. Annuities That Began After July 1, 1986, and Before January 1, 1987

The Wisconsin and federal tax treatment differs for certain annuities that began after July 1, 1986, and before January 1, 1987.

Federal tax treatment

If you contributed to the cost of your annuity, you are required to recover your contribution by computing a monthly excludable amount. Amounts in excess of the excludable amount are fully taxable.

Wisconsin tax treatment

For annuities that began after July 1, 1986, and before January 1, 1987, you were allowed to use the "3-year rule."

The "3-year rule" provided that if you would recover your contributions within three years after the date of your first annuity payment, the amounts you received were nontaxable until your own contributions were recovered. After your contributions were recovered, all amounts you receive are fully taxable.

If you computed the taxable portion of your annuity under the "3-year rule" for Wisconsin for 1986, but a monthly excludable amount was calculated for federal tax purposes, you will always have different taxable amounts of your annuity for Wisconsin and federal tax purposes.

If you are a full-year resident of Wisconsin and are affected by this difference, you must file your Wisconsin income tax return on Form 1. You must also complete a Wisconsin Schedule I and enclose it with your Wisconsin return. Part-year residents must also complete Schedule I and enclose it with Form 1NPR.

H. Distributions From IRAs, Keoghs, and Deferred Compensation Plans That Invest in U.S. Government Securities

Interest income from U.S. government securities is not taxable by Wisconsin. A distribution from an IRA, Keogh, or qualified deferred compensation plan (such as IRC sections 401(k), 403(b), and 457 deferred compensation plans) which is the direct owner of U.S. government securities or invests in a mutual fund which holds U.S. government securities is exempt from Wisconsin income tax to the extent the distribution is attributable to interest from those U.S. government securities.

Example 1: You establish an IRA. The amounts contributed to the IRA are invested in securities issued by the U.S. government. When you withdraw an amount from this IRA, the portion of the amount you withdraw that is attributable to interest from U.S. government securities may be excluded from Wisconsin taxable income.

Example 2*:* You establish an IRA at a bank. The amounts contributed to the IRA are invested in bank certificates of deposit. The bank receives interest income from its own investment in U.S. government securities. When you withdraw an amount from this IRA, no portion of the amount withdrawn is considered attributable to interest from U.S. government securities. Interest received by the bank does not pass through as exempt U.S. government interest to the owner of an IRA.

How to determine the U.S. government interest portion of a distribution

Use the worksheet on the next page to determine the portion of an IRA distribution that is considered U.S. government interest. If you have more than one IRA, they must be considered together as a single IRA, when completing the worksheet. The worksheet may also be used to determine what portion of a Keogh plan or qualified deferred compensation plan distribution is U.S. government interest.

1. Amount distributed from all IRAs during the year.	1. _______________
2. Total U.S. government interest received by the IRAs for all years minus the amount of U.S. government interest withdrawn in prior years.	2. _______________
3. Total value of all IRAs at end of year plus amount on line 1.	3. _______________
4. Divide line 2 by line 3. Enter decimal.	4. _______________
5.Multiply line 1 by line 4. This is the amount of the IRA distribution that is considered U.S. government interest.	5. _______________

I. Tax-Sheltered Annuities

Federal tax treatment

Tax-sheltered annuity benefits received by retired teachers are included in taxable income.

Wisconsin tax treatment

Except as provided below, tax-sheltered annuity benefits received by retired teachers are included in taxable income.

Exception: A subtraction is allowed if a school system purchased a tax-sheltered annuity for an employee prior to January 1, 1965, and the employee paid Wisconsin income tax on the tax-sheltered annuity deposit that was used to pay the 1964 annuity premium. The subtraction is equal to the portion of the tax-sheltered annuity benefit that is included in federal adjusted gross income and on which the employee previously paid Wisconsin income tax.

Example: You made a deposit of $200 for the purchase of a tax-sheltered annuity in 1964. The $200 was included in your 1964 Wisconsin taxable income. You retired in 2023. The first $200 of tax-sheltered annuity benefits you receive are not taxable by Wisconsin. All future benefits are taxable.

J. Nonresidents and Part-Year Residents

Distributions received while a Wisconsin resident

Distributions from retirement plans and deferred compensation plans (both qualified and nonqualified plans) received while a Wisconsin resident are taxable by Wisconsin. This applies even though the distribution may be attributable to services performed outside Wisconsin.

Example: You retired from your job in Ohio on September 1, 2023. On October 1, 2023, you became a resident of Wisconsin. In November, you received a lump-sum distribution of $60,000 from your former Ohio employer's noncontributory retirement plan. The $60,000 is taxable by Wisconsin.

Distributions received while a nonresident of Wisconsin

Qualified Plans – Distributions received from a qualified retirement plan or qualified deferred compensation plan by an individual who is not a resident of Wisconsin are not taxable by Wisconsin. This applies even though the distribution may be attributable to services performed in Wisconsin.

A "qualified retirement plan" or "qualified deferred compensation plan" includes income from:

- A qualified trust under sec. 401(a) of the IRC which forms part of a stock bonus, pension, or profit-sharing plan and which is exempt from taxation under sec. 501(a), IRC
- A simplified employee pension (SEP) under sec. 408(k), IRC
- An annuity plan under sec. 403(a), IRC
- An annuity contract under sec. 403(b), IRC (employees of a public school or tax-exempt organization)
- An IRA under sec. 7701(a)(37), IRC
- A deferred compensation plan of state and local governments and tax-exempt organizations under sec. 457, IRC

- A government plan under sec. 414(d), IRC
- A trust described in sec. 501(c)(18), IRC

Example: You retired from your job in Wisconsin on March 1, 2023, and became a Florida resident on March 15, 2023. On April 1, 2023, you began receiving monthly payments from your former employer's qualified retirement plan. Amounts received while you are a Florida resident are not taxable by Wisconsin.

Nonqualified Plans – Distributions received from a nonqualified employee plan by a nonresident of Wisconsin are taxable by Wisconsin if the payment is attributable to services performed in Wisconsin. (See **Exception** below.)

Example: You retired on March 1, 2023, after 30 years of service for ABC Corporation in Wisconsin. On April 1, 2023, you became a Florida resident. In May 2023, you received a lump-sum distribution of $200,000 from ABC Corporation's nonqualified deferred compensation plan. The $200,000 payment is taxable by Wisconsin because the entire payment is attributable to services performed in Wisconsin. For purposes of this example, it is assumed that the exception below does not apply.

Exception: Federal law preempts taxation of certain distributions received from a nonqualified employee plan by an individual who is not a resident of Wisconsin. Nonqualified employee plan distributions received by an individual who is not a resident of Wisconsin are exempt from Wisconsin income tax in the following two cases:

(1) When the distribution is paid out in annuity form over the life expectancy of the individual or for a period of not less than ten years

(2) When the distribution is paid in either an annuity or lump sum from arrangements known commonly as "mirror" plans

A "mirror" plan is a nonqualified retirement plan maintained by an employer solely for the purpose of providing benefits in excess of certain limits on contributions and benefits contained in the IRC that apply to qualified retirement plans. The benefits provided under a mirror plan are those benefits that would have been provided under the terms of a qualified retirement plan, but for the application of the following limits on contributions and benefits:

- Code section 401(a)(17): Limits the amount of annual compensation that may be taken into account under a qualified retirement plan for purposes of computing benefits and contributions
- Code section 401(k): Limits the amount of elective deferrals that may be made by a highly compensated employee to a qualified cash or deferred arrangement
- Code section 401(m): Limits the amounts of employer matching contributions and after-tax employee contributions that may be made to a 401(k) plan on behalf of highly compensated employees
- Code section 402(g): Limits the annual amount of elective deferrals that may be made to a 401(k) plan (or a similar arrangement)
- Code section 403(b): Limits the amount of annual contributions that may be made to a tax-sheltered annuity maintained by certain tax-exempt entities
- Code section 408(k): Limits the amount of elective deferrals that may be made by a highly compensated employee to a simplified employee pension (maintained by smaller employers)
- Code section 415: Limits the amount of benefits that may be paid from a defined benefit plan and limits the amount of annual contributions that can be made to a defined contribution plan

5. WITHHOLDING/ESTIMATED TAX

Wisconsin law does not require that state income tax be withheld from qualified retirement benefits. However, you may submit a written request to your employer or other payor to withhold Wisconsin income tax from your retirement benefits. The amount withheld from each payment must be $5 or more.

To request withholding on retirement benefits received from the Wisconsin Department of Employee Trust Funds (ETF), complete Form ET-4310, *Substitute W-4P Tax Withholding Certificate for Pension or Annuity Payments.* This form is available from the ETF website at etf.wi.gov/publications/et4310.pdf or by calling ETF toll-free at 1-877-533-5020 or (608) 266-3285 (local Madison).

To request withholding on federal retirement system benefits, contact the U.S. Office of Personnel Management. Information is available from their website at opm.gov or by calling 888-767-6738.

If you do not have Wisconsin income tax withheld, you may be required to make estimated tax payments. Generally, if you would have to pay $500 or more with your income tax return, you must make estimated tax payments.

You make estimated tax payments by filing Form 1-ES, *Estimated Income Tax Interactive Voucher*. Estimated tax payments may also be made online for your convenience and security. Go to tap.revenue.wi.gov/pay.

If you do not make the required estimated tax payments, you may be charged interest. Interest is at the rate of 12% per year for the period of the underpayment.

6. PENALTIES

Federal law imposes additional penalty taxes on retirement plans and IRAs in certain situations. For example, you may be subject to the 10% tax on early distributions or to the 6% tax on excess contributions.

If you are subject to the federal penalty tax on a retirement plan, you may be subject to a Wisconsin penalty.

The Wisconsin penalty is equal to 33% of the federal penalty tax. The Wisconsin penalty does not apply if the distribution is from a local or state retirement system or federal retirement system and the distribution is exempt from Wisconsin tax (see "Local and state retirement systems" and "Federal civilian employee retirement systems" in Part 4.D. on page 5).

A part-year resident of Wisconsin is subject to the penalty if the action which caused the federal penalty tax occurred while a Wisconsin resident.

Example: You became a Wisconsin resident in July of 2023. In August 2023, you received a distribution of $10,000 from your former employer's qualified retirement plan. For federal tax purposes you are subject to the 10% tax on early distributions. Because you were a Wisconsin resident when you received the early distribution, you are also subject to the Wisconsin penalty.

Note: Receipt of the $10,000 is the action which caused you to owe the federal penalty tax.

Full-year Wisconsin residents report the penalty on Form 1. Part-year residents report the penalty on Form 1NPR.

7. ADDITIONAL INFORMATION

If you are unable to find an answer to your questions about the Wisconsin tax treatment of retirement benefits, visit the department's website, email, write, or call:

Visit our website . . . revenue.wi.gov

Email. . . DORIncome@wisconsin.gov

Write . . . Mail Stop 5-77
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Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations enacted as of February 28, 2024: ch. 71, Wis. Stats., and secs. 72 and 86, IRC.

Laws enacted and in effect after this date, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior this date, that is contrary to the information in this document is superseded by this document, according to sec. 73.16(2)(a), Wis. Stats.