

105TH CONGRESS  
1ST SESSION

# H. R. 372

To amend the Internal Revenue Code of 1986 to provide an exclusion from gross income for that portion of a governmental pension received by an individual which does not exceed the maximum benefits payable under title II of the Social Security Act which could have been excluded from income for the taxable year.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1997

Mr. VENTO introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide an exclusion from gross income for that portion of a governmental pension received by an individual which does not exceed the maximum benefits payable under title II of the Social Security Act which could have been excluded from income for the taxable year.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Public Pension Parity  
5       Act of 1997”.

1 **SEC. 2. EXCLUSION FOR CERTAIN PENSIONS AND ANNU-**  
2 **ITIES UNDER PUBLIC RETIREMENT SYSTEMS.**

3 (a) IN GENERAL.—Part III of subchapter B of chap-  
4 ter 1 of the Internal Revenue Code of 1986 (relating to  
5 items specifically excluded from income) is amended by re-  
6 designating section 138 as section 139 and by inserting  
7 after section 137 the following new section:

8 **“SEC. 138. CERTAIN PENSIONS AND ANNUITIES UNDER**  
9 **PUBLIC RETIREMENT SYSTEMS.**

10 “(a) GENERAL RULE.—Gross income does not in-  
11 clude any amount (otherwise includable in gross income)  
12 received by an individual as a qualified governmental pen-  
13 sion.

14 “(b) LIMITATIONS.—

15 “(1) DOLLAR LIMITATION.—The aggregate  
16 amount excluded under subsection (a) for the tax-  
17 able year shall not exceed—

18 “(A) the maximum excludable social secu-  
19 rity benefits of the taxpayer for such year, re-  
20 duced by

21 “(B) the social security benefits (within  
22 the meaning of section 86(d)) received by the  
23 taxpayer during such year which were excluded  
24 from gross income.

1           “(2) SERVICE REQUIREMENT.—Subsection (a)  
2       shall not apply to any qualified governmental pen-  
3       sion received by the taxpayer during the taxable year  
4       unless the taxpayer (or the spouse or former spouse  
5       of the taxpayer) performed the service giving rise to  
6       such pension.

7           “(c) DEFINITIONS.—For purposes of this section:

8           “(1) QUALIFIED GOVERNMENTAL PENSION.—  
9       The term ‘qualified governmental pension’ means  
10      any pension or annuity received under a public re-  
11      tirement system to the extent such pension or annu-  
12      ity is not attributable to service—

13           “(A) which constitutes employment for  
14      purposes of chapter 21 (relating to the Federal  
15      Insurance Contributions Act), or

16           “(B) which is covered by an agreement  
17      made pursuant to section 218 of the Social Se-  
18      curity Act.

19           “(2) MAXIMUM EXCLUDABLE SOCIAL SECURITY  
20      BENEFITS.—The term ‘maximum excludable social  
21      security benefits’ means an amount equal to so  
22      much of the applicable maximum benefit amount for  
23      the taxpayer for the taxable year which would be ex-  
24      cluded from gross income if such benefit amount  
25      were treated as social security benefits (within the

1 meaning of section 86(d)) received during the tax-  
 2 able year.

3 “(3) APPLICABLE MAXIMUM BENEFIT  
 4 AMOUNT.—The term ‘applicable maximum benefit  
 5 amount’ means—

6 “(A) in the case of an unmarried individ-  
 7 ual, the maximum individual social security  
 8 benefit,

9 “(B) in the case of a joint return, 150 per-  
 10 cent of the maximum individual social security  
 11 benefit, or

12 “(C) in the case of a married individual fil-  
 13 ing a separate return, 75 percent of the maxi-  
 14 mum individual social security benefit.

15 For purposes of the preceding sentence, marital sta-  
 16 tus shall be determined under section 7703.

17 “(4) MAXIMUM INDIVIDUAL SOCIAL SECURITY  
 18 BENEFIT.—

19 “(A) IN GENERAL.—The term ‘maximum  
 20 individual social security benefit’ means, with  
 21 respect to any taxable year, the maximum total  
 22 amount (as certified by the Commissioner of  
 23 Social Security to the Secretary) which could be  
 24 paid for all months in the calendar year ending  
 25 in the taxable year as old-age insurance benefits

1 under section 202(a) of the Social Security Act  
2 (without regard to any reduction, deduction, or  
3 offset under section 202(k) or section 203 of  
4 such Act) to any individual who attained retire-  
5 ment age (as defined in section 216(l) of such  
6 Act), and filed application for such benefits, on  
7 the first day of such calendar year.

8 “(B) PART YEARS.—In the case of an indi-  
9 vidual who receives a qualified governmental  
10 pension with respect to a period of less than a  
11 full taxable year, the maximum individual social  
12 security benefit for such individual for such  
13 year shall be reduced as provided in regulations  
14 prescribed by the Secretary to properly cor-  
15 respond to such period.

16 “(5) PUBLIC RETIREMENT SYSTEM.—The term  
17 ‘public retirement system’ means any pension, annu-  
18 ity, retirement, or similar fund or system established  
19 by the United States, a State, a possession of the  
20 United States, any political subdivision of any of the  
21 foregoing, or the District of Columbia.”

22 (b) TECHNICAL AMENDMENT.—Subparagraph (A) of  
23 section 86(b)(2) of such Code (defining modified adjusted  
24 gross income) is amended by inserting “138,” before  
25 “911”.

1       (c) CLERICAL AMENDMENT.—The table of sections  
2 for part III of subchapter B of chapter 1 of such Code  
3 (relating to items specifically excluded from income) is  
4 amended by redesignating the item relating to section 138  
5 as section 139 and by inserting after the item relating to  
6 section 137 the following new item:

“Sec. 138. Certain pensions and annuities under public retirement  
systems.”

7       (d) EFFECTIVE DATE.—The amendments made by  
8 this Act shall apply to taxable years beginning after the  
9 date of the enactment of this Act.

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