



PENSION INCOME OF RETIRED FEDERAL LAW ENFORCEMENT & FEDERAL FIREFIGHTER PERSONNEL – *DAWSON V. STEAGER*

This publication provides general information. It is not a substitute for tax laws or regulations.

GENERAL INFORMATION

- West Virginia personal income tax law provides a modification reducing federal adjusted gross income for certain retirement income received from the WV State Police retirement system, the WV Deputy Sheriffs Retirement system, and certain municipal police and fire retirement systems.
- A decision by the US Supreme Court, *Dawson v. Steager*, has effectively extended that modification to certain federal law enforcement retirees and federal firefighter retirees. This publication provides guidance to retirees on the application of the Dawson decision.
- This publication remains in effect unless there is a change in state or federal law which would affect the guidance provided.

WEST VIRGINIA LAW ENFORCEMENT AND FIREFIGHTER RETIREES

- WV law provides a limited decreasing modification from federal adjusted gross income for income from certain specific retirement plans for WV State Police, Deputy Sheriffs and Municipal police and firefighters. **Retirement income from the Public Employee Retirement Systems (PERS) is not eligible for this modification.** Only income from the following retirement plans are eligible to be deducted from federal adjusted gross income:
 - West Virginia State Police Death, Disability and Retirement Fund;
 - West Virginia State Police Retirement System;
 - West Virginia Deputy Sheriff Retirement System;
 - Municipal Police Officers and Firefighters Retirement System; and
 - Plans administered under the oversight of the Municipal Pension Oversight Board.
- **No other state or private retirement plan is eligible.** Members of the Public Employees Retirement System (PERS) are not eligible for this modification. They can deduct only \$2,000 of income from taxation, regardless of the work performed prior to retirement until they become age 65, after which they can deduct \$8,000 of income from any source. This includes former natural resource officers, sheriffs, sheriff deputies, and municipal police and firefighters when they are members of PERS instead of the eligible retirement systems listed above.

FEDERAL LAW ENFORCEMENT AND FIREFIGHTER RETIREES

- While WV law does not specifically permit any retiree other than those belonging to those described to take the modification, federal law (4 U.S.C. §111) provides for equal treatment of the pay of federal workers. A recent decision of the US Supreme Court (*Dawson v. Steager*, 586 U.S. ____; 139 S. Ct. 698 (2019)) extended this benefit to federal retirees that held job responsibilities substantially similar to the job responsibilities of a West Virginia state police officer, firefighter, deputy sheriff, or covered municipal police officer..
- Those federal law enforcement and firefighter retirees that qualify for this West Virginia decreasing modification may provide an attested Federal Form RI 20-124 -- *Certification of Service Performed as a Law Enforcement Officer, Firefighter, Nuclear Materials Courier, Customs and Border Protection Officer (535 Service), or Air Traffic Controller* or other certification showing work performed as a Federal Law Enforcement Officer, or Federal Firefighter, Nuclear Materials Courier, or Customs and Border Protection Officer (535 Service). Air Traffic Controllers cannot claim this modification.
- No other federal retiree qualifies for this treatment.
- Only taxable amounts as described above included on the 1099R issued by the Federal Office of Personnel Management, Retirement Operations, qualify for this decreasing modification.
- The pension of a federal law enforcement retiree who also has years of service in a non-law enforcement position may be subject to apportionment to allow only the law enforcement portion of the pension as a deduction from adjusted gross income.

**OTHER STATE
AND LOCAL
POLICE AND
FIREFIGHTERS**

- The US Supreme Court decision in *Dawson* is limited to federal law enforcement and firefighter retirees and does not extend to law enforcement or firefighter retirees who retire under any other retirement plan of other states or political subdivisions. However, District of Columbia law enforcement officer or firefighter retirees may be able to deduct the pension they receive from a federal source related to this service upon submission of proper documentation.

EXAMPLES:

- John Q. Lawman retired from the West Virginia State Police and receives a pension from the West Virginia State Police Death, Disability and Retirement Fund. He may take a modification from his adjusted gross income for the full amount of pension he receives from that fund.
- Darrell P. Deputy retired after working as a deputy sheriff. He receives a pension from the Public Employees Retirement System (PERS). He can only exclude \$2,000 of his pension income from his adjusted gross income until he is age 65 or older when he can deduct up to \$8,000 of income from any source.
- Robert U. S. Marshal retired from the Federal Marshal Service. He can provide an attested Federal Form RI 20-124 – *Certification of Service Performed as a Law Enforcement Officer, Firefighter, Nuclear Material Courier, Customs and Border Protection Officer (535 Service) or Air Traffic Controller* showing he retired as a federal law enforcement officer. He can deduct the pension he receives related to his service as a Federal Marshall from his adjusted gross income.
- Joe M. City retired after working as a municipal policeman in Florida and moved back to West Virginia. His pension is taxable in West Virginia because it is not from one of the designated specific pension plans listed in the statute and his job responsibilities prior to retirement were not those of a federal law enforcement or firefighter employee subject to the holding in *Dawson*.

**ASSISTANCE AND
ADDITIONAL
INFORMATION**

- For assistance or additional information, you may call a Taxpayer Service Representative at:

**1-800-WVA-TAXS
(1-800-982-8297)**

Or visit our website at:

www.tax.wv.gov

File and pay taxes online at:

<https://mytaxes.wvtax.gov>

Email questions to:

taxhelp@wv.gov