



*This publication provides general information and is not meant to be a substitute for tax laws or regulations.*

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 remains in effect unless there is a change in state or federal law which would affect the guidance provided.

**West Virginia Retirees**

WV law provides a 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. 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;
- Division of Natural Resources Police Officers Retirement System; and
- Plans administered under the oversight of the Municipal Pension Oversight Board.

**To receive the modification, eligible law enforcement officers and firefighter retirees must submit their 1099-R with their return.**

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 are age 65 or totally disabled, 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 Retirees**

While WV law does not specifically permit any retiree other than those belonging to those retirement plans 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*, 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. Only taxable amounts above included on the 1099-R issued by the Federal Office of Personnel Management, Retirement Operations, qualify for this decreasing modification.

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.

**No other federal retiree qualifies for this 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.

**For more information, you can:**

- Call a Taxpayer Services Representative at (304) 558-3333 or toll-free at (800) 982-8297
- Email [taxhelp@wv.gov](mailto:taxhelp@wv.gov)
- Go Online to [tax.wv.gov](http://tax.wv.gov)