



125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 358

H.P. 284

House of Representatives, February 8, 2011

**An Act To Exempt from the Income Tax Military Death Payments
and Employment-based Retirement Income of Persons Who Are 65
Years of Age or Older**

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative HARMON of Palermo.
Cosponsored by Senator THIBODEAU of Waldo and
Representatives: DION of Portland, JOHNSON of Greenville, KNIGHT of Livermore Falls,
NASS of Acton, PILON of Saco, RICHARDSON of Carmel, VALENTINO of Saco, Senator:
TRAHAN of Lincoln.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 36 MRSA §5122, sub-§2, ¶M**, as amended by PL 2005, c. 218, §53, is
3 further amended to read:

4 M. For each individual who is less than 65 years of age and who is a primary
5 recipient of pension benefits under an employee retirement plan, an amount that is the
6 lesser of:

7 (1) Six thousand dollars reduced by the total amount of the individual's social
8 security benefits and railroad retirement benefits paid by the United States, but
9 not less than \$0. The reduction does not apply to benefits paid under a military
10 retirement plan; or

11 (2) The aggregate of pension benefits under employee retirement plans included
12 in the individual's federal adjusted gross income.

13 For purposes of this paragraph, the following terms have the following meanings.
14 "Primary recipient" means the individual upon whose earnings the employee
15 retirement plan benefits are based or the surviving spouse of that individual.
16 "Pension benefits" means employee retirement plan benefits reported as pension or
17 annuity income for federal income tax purposes. "Employee retirement plan" means
18 a state, federal or military retirement plan or any other retirement benefit plan
19 established and maintained by an employer for the benefit of its employees under the
20 Code, Section 401(a), Section 403 or Section 457(b), except that distributions made
21 pursuant to a Section 457(b) plan are not eligible for the deduction provided by this
22 paragraph if they are made prior to age 55 and are not part of a series of substantially
23 equal periodic payments made for the life of the primary recipient or the joint lives of
24 the primary recipient and that recipient's designated beneficiary. "Employee
25 retirement plan" does not include an individual retirement account under Section 408
26 of the Code, a Roth IRA under Section 408A of the Code, a rollover individual
27 retirement account, a simplified employee pension under Section 408(k) of the Code
28 or an ineligible deferred compensation plan under Section 457(f) of the Code.
29 Pension benefits under an employee retirement plan do not include distributions that
30 are subject to the tax imposed by the Code, Section 72(t). "Military retirement plan"
31 means benefits received as a result of service in the active or reserve components of
32 the Army, Navy, Air Force, Marines or Coast Guard;

33 **Sec. 2. 36 MRSA §5122, sub-§2, ¶FF**, as corrected by RR 2009, c. 2, §112, is
34 amended to read:

35 FF. To the extent included in federal adjusted gross income, student loan payments
36 made by the taxpayer's employer in accordance with section 5217-D; ~~and~~

37 **Sec. 3. 36 MRSA §5122, sub-§2, ¶GG**, as reallocated by RR 2009, c. 2, §113, is
38 amended to read:

39 GG. To the extent included in the taxpayer's federal adjusted gross income, the
40 recovery of a portion of a federal standard deduction claimed in a prior year for
41 which the taxpayer was not allowed under this Part to reduce federal adjusted gross
42 income or Maine adjusted gross income for that year;

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Sec. 4. 36 MRSA §5122, sub-§2, ¶HH is enacted to read:

HH. To the extent included in federal adjusted gross income, pension benefits received by an individual who is 65 years of age or older and a primary recipient of pension benefits under an employee retirement plan.

For purposes of this paragraph, the following terms have the following meanings. "Primary recipient" means the individual upon whose earnings the employee retirement plan benefits are based or the surviving spouse of that individual. "Pension benefits" means employee retirement plan benefits reported as pension or annuity income for federal income tax purposes. "Employee retirement plan" means a state, federal or military retirement plan or any other retirement benefit plan established and maintained by an employer for the benefit of its employees under the Code, Section 401(a), Section 403 or Section 457(b), an individual retirement account under Section 408 of the Code, a Roth IRA under Section 408A of the Code, a rollover individual retirement account, a simplified employee pension under Section 408(k) of the Code or an ineligible deferred compensation plan under Section 457(f) of the Code. "Military retirement plan" means benefits received as a result of service in the active or reserve components of the Army, Navy, Air Force, Marines or Coast Guard; and

Sec. 5. 36 MRSA §5122, sub-§2, ¶II is enacted to read:

II. To the extent included in federal adjusted gross income, a military death gratuity payment made to the survivor of a deceased member of the military under 10 United States Code, Chapter 75.

Sec. 6. Application. This Act applies to tax years beginning on or after January 1, 2011.

SUMMARY

This bill provides an income tax exemption to persons who are 65 years of age or older for retirement income from an employment-based retirement plan and maintains the current limited retirement benefit exemption for person under 65 years of age. The bill also provides an income tax exemption for military death payments.