

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND SIXTEEN

—
H.P. 1029 - L.D. 1506

**An Act To Make Additional Technical Changes to Recently Enacted Tax
Legislation Concerning Pension Income**

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, state tax law needs to be updated before the 90-day period expires to ensure the proper filing and processing of income tax returns for 2015; and

Whereas, legislative action is immediately necessary to ensure continued and efficient administration of the state income tax; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 36 MRSA §5122, sub-§2, ¶M-1, as amended by PL 2015, c. 328, §3, is further amended to read:

M-1. For tax years beginning on or after January 1, 2014 but before January 1, 2016, for each individual who is a primary recipient of retirement plan benefits under an employee retirement plan or an individual retirement account, an amount that is the lesser of the aggregate of retirement plan benefits under employee retirement plans or individual retirement accounts included in the individual's federal adjusted gross income and the pension deduction amount reduced by the total amount of the individual's social security benefits and railroad retirement benefits paid by the United States, but not less than \$0. The social security benefits and railroad retirement benefits reduction does not apply to benefits paid under a military retirement plan.

For purposes of this paragraph, the following terms have the following meanings.

(1) "Employee retirement plan" means a state or 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), except that distributions made pursuant to a Section 457(b) plan are not eligible for the deduction provided by this paragraph if they are made prior to age 55 and are not part of a series of substantially equal periodic payments made for the life of the primary recipient or the joint lives of the primary recipient and that recipient's designated beneficiary. ~~"Employee retirement plan" does not include a military retirement plan or survivor benefits under such a plan.~~

(2) "Individual retirement account" means an individual retirement account under Section 408 of the Code, a Roth IRA under Section 408A of the Code, a simplified employee pension under Section 408(k) of the Code or a simple retirement account for employees under Section 408(p) of the Code.

(3) "Military retirement plan" means retirement plan benefits received as a result of service in the active or reserve components of the Army, Navy, Air Force, Marines or Coast Guard.

(4) "Pension deduction amount" means \$10,000 ~~for tax years beginning on or after January 1, 2014.~~

(5) "Primary recipient" means the individual upon whose earnings or contributions the retirement plan benefits are based or the surviving spouse of that individual.

(6) "Retirement plan benefits" means employee retirement plan benefits, except pick-up contributions for which a subtraction is allowed under paragraph E, reported as pension or annuity income for federal income tax purposes and individual retirement account benefits reported as individual retirement account distributions for federal income tax purposes. "Retirement plan benefits" does not include distributions that are subject to the tax imposed by the Code, Section 72(t);

Sec. 2. 36 MRSA §5122, sub-§2, ¶M-2, as enacted by PL 2015, c. 267, Pt. DD, §10, is amended to read:

M-2. For tax years beginning on or after January 1, 2016:

(1) For each individual who is a primary recipient of retirement plan benefits, the reduction is the sum of:

(a) ~~Excluding military retirement plan benefits, an amount that is the lesser of the aggregate of retirement plan benefits under employee retirement plans or individual retirement accounts included in the individual's federal adjusted gross income and the pension deduction amount. The amount claimed under this division must be reduced by the total amount of the individual's social security benefits and railroad retirement benefits paid by the United States, but not less than \$0; and;~~

(i) The aggregate of retirement plan benefits under employee retirement plans or individual retirement accounts included in the individual's federal adjusted gross income; and

(ii) The pension deduction amount reduced by the total amount of the individual's social security benefits and railroad retirement benefits paid by the United States, but not less than \$0; and

(b) An amount equal to the aggregate of retirement benefits under military retirement plans included in the individual's federal adjusted gross income; and

(2) For purposes of this paragraph, the following terms have the following meanings.

(a) "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), except that distributions made pursuant to a Section 457(b) plan are not eligible for the deduction provided by this paragraph if they are made prior to age 55 and are not part of a series of substantially equal periodic payments made for the life of the primary recipient or the joint lives of the primary recipient and that recipient's designated beneficiary.

(b) "Individual retirement account" means an individual retirement account under Section 408 of the Code, a Roth IRA under Section 408A of the Code, a simplified employee pension under Section 408(k) of the Code or a simple retirement account for employees under Section 408(p) of the Code.

(c) "Military retirement plan" means retirement plan benefits received as a result of service in the active or reserve components of the Army, Navy, Air Force, Marines or Coast Guard.

(d) "Pension deduction amount" means \$10,000 ~~for tax years beginning in 2014.~~

(e) "Primary recipient" means the individual upon whose earnings or contributions the retirement plan benefits are based or the surviving spouse of that individual.

(f) "Retirement plan benefits" means employee retirement plan benefits, except pick-up contributions for which a subtraction is allowed under paragraph E, reported as pension or annuity income for federal income tax purposes and individual retirement account benefits reported as individual retirement account distributions for federal income tax purposes. "Retirement plan benefits" does not include distributions that are subject to the tax imposed by the Code, Section 72(t);

Sec. 3. 36 MRSA §5122, sub-§2, ¶BB, as amended by PL 2015, c. 300, Pt. A, §40, is further amended to read:

BB. The amount of pension benefits to the extent included in federal adjusted gross income under a military retirement plan as defined in paragraph M ~~or~~ M-1 or M-2 that exceed the amount of military retirement plan pension benefits deducted under paragraph M ~~or~~ M-1 or M-2 and that are received by a person who practices as a licensed dentist in this State for an average of at least 20 hours per week during the tax year and who accepts patients who receive benefits under the MaineCare program administered under Title 22, chapter 855;

Sec. 4. Retroactivity. That section of this Act that amends the Maine Revised Statutes, Title 36, section 5122, subsection 2, paragraph M-1 applies retroactively to June 30, 2015.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.