

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Exempt Military Pensions from Income Tax**

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

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

M. For each individual who is a primary recipient of pension benefits under an employee retirement plan, the amount of military retirement benefits under a military retirement plan for military personnel to the extent included in federal adjusted gross income plus an amount that is the lesser of:

- (1) Six thousand dollars 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 reduction does not apply to benefits paid under a military retirement plan; or
- (2) The aggregate of pension benefits under employee retirement plans included in the individual's federal adjusted gross income, excluding military retirement benefits under a military retirement plan for military personnel.

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), 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 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. Pension benefits under an employee retirement plan do not include distributions that are subject to the tax imposed by the Code, Section 72(t). "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;

**Sec. 2. Application.** This Act applies to tax years beginning on or after January 1, 2009.

## **SUMMARY**

This bill exempts from the state income tax all military pension and survivors' benefits for military personnel received by a Maine resident as a result of service in the active or reserve components of the Army, Navy, Air Force, Marines or Coast Guard.