

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 785

H.P. 562

House of Representatives, February 15, 2005

An Act To Allow Employers To Take a Tax Deduction for Their Employees' Transportation Costs

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative MARLEY of Portland. (BY REQUEST)

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

2
4 **Sec. 1. 36 MRSA §5122, sub-§2, ¶Q**, as corrected by RR 2003, c.
1, §38, is amended to read:

6 Q. A fraction of any amount previously added back by the
taxpayer to federal adjusted gross income pursuant to
8 subsection 1, paragraph N.

10 (1) With respect to property first placed in service
during taxable years beginning in 2002, the adjustment
12 under this paragraph is available for each year during
the recovery period, beginning 2 years after the
14 beginning of the taxable year during which the property
was first placed in service. The fraction is equal to
16 the amount added back under subsection 1, paragraph N
with respect to the property, divided by the number of
18 years in the recovery period minus 2.

20 (2) With respect to all other property, for the
taxable year immediately following the taxable year
22 during which the property was first placed in service,
the fraction allowed by this paragraph is equal to 5%
24 of the amount added back under subsection 1, paragraph
N with respect to the property. For each subsequent
26 taxable year during the recovery period, the fraction
is equal to 95% of the amount added back under
28 subsection 1, paragraph N with respect to the property,
divided by the number of years in the recovery period
30 minus 2.

32 In the case of property expensed pursuant to Section 179 of
the Code, the term "recovery period" means the recovery
34 period that would have been applicable to the property had
Section 179 not been applied; and

36 **Sec. 2. 36 MRSA §5122, sub-§2, ¶T**, as amended by PL 2003, c.
38 705, §12 and affected by §14, is further amended to read:

40 T. For income tax years beginning on or after January 1,
2002 and before January 1, 2004, an amount equal to the
42 total premiums spent for long-term care insurance policies
certified under Title 24-A, section 5075-A as long as the
44 amount subtracted is reduced by the long-term care premiums
claimed as an itemized deduction pursuant to section 5125.

46 For income tax years beginning on or after January 1, 2004,
48 an amount equal to the total premiums spent for qualified
long-term care insurance contracts certified under Title
50 24-A, section 5075-A, as long as the amount subtracted is

2 reduced by any amount claimed as a deduction for federal
income tax purposes in accordance with the Code, Section
4 162(1) and by the long-term care premiums claimed as an
itemized deduction pursuant to section 5125,; and.

6 **Sec. 3. 36 MRSA §5122, sub-§2, ¶U** is enacted to read:

8 U. For income tax years beginning on or after January 1,
10 2005, to the extent included in federal adjusted gross
12 income, the amount of qualified transportation fringe
benefit program reimbursement provided by an employer to an
employee under Section 132 of the Code.

14 **Sec. 4. 36 MRSA §5200-A, sub-§2, ¶L**, as amended by PL 2003, c.
20, Pt. EE, §3, is further amended to read:

16 L. An amount equal to the absolute value of any net
18 operating loss arising from a tax year beginning or ending
in 2001 for which federal taxable income was increased under
20 subsection 1, paragraph M and that, pursuant to Section 102
of the federal Job Creation and Worker Assistance Act of
22 2002, Public Law 107-147, was carried back more than 2 years
to the taxable year for federal income tax purposes, but
24 only to the extent that:

26 (1) Maine taxable income is not reduced below zero;

28 (2) The taxable year is either within 2 years prior to
the year in which the loss arose or within the
30 allowable federal period for carry-over of net
operating losses; and

32 (3) The amount has not been previously used as a
34 modification pursuant to this subsection; ~~and~~

36 **Sec. 5. 36 MRSA §5200-A, sub-§2, ¶M**, as repealed and replaced
by PL 2003, c. 479, §6, is amended to read:

38 M. A fraction of any amount previously added back by the
40 taxpayer to federal taxable income pursuant to subsection 1,
paragraph N.

42 (1) With respect to property first placed in service
44 during taxable years beginning in 2002, the adjustment
under this paragraph is available for each year during
46 the recovery period, beginning 2 years after the
beginning of the taxable year during which the property
48 was first placed in service. The fraction is equal to
the amount added back under subsection 1, paragraph N

2 with respect to the property, divided by the number of
years in the recovery period minus 2.

4 (2) With respect to all other property, for the
6 taxable year immediately following the taxable year
8 during which the property was first placed in service,
10 the fraction allowed by this paragraph is equal to 5%
12 of the amount added back under subsection 1, paragraph
14 N with respect to the property. For each subsequent
taxable year during the recovery period, the fraction
is equal to 95% of the amount added back under
subsection 1, paragraph N with respect to the property,
divided by the number of years in the recovery period
minus 2.

16 In the case of property expensed pursuant to Section 179 of
18 the Code, the term "recovery period" means the recovery
period that would have been applicable to the property had
Section 179 not been applied; and

20 **Sec. 6. 36 MRSA §5200-A, sub-§2, ¶P** is enacted to read:

22 P. For income tax years beginning on or after January 1,
24 2005, to the extent included in federal adjusted gross
26 income, the amount of qualified transportation fringe
28 benefit program reimbursement provided by an employer to an
employee under Section 132 of the Code.

30 **SUMMARY**

32 This bill establishes an income tax modification to exempt
34 from state taxation the amount of qualified transportation fringe
benefit program payments provided by an employer to an employee.
36 Qualified benefits include cash reimbursement for transit passes,
qualified parking and transportation in certain commuter highway
vehicles.