

# MAINE STATE LEGISLATURE

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Taxation / Inclusion of Survivor Benefits in Estates  
Taxation / Inheritance Taxes

36 MRS A 3461

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STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL  
BUREAU OF TAXATION  
AUGUSTA, MAINE 04333

July 5, 1977

Lt. Col. Wayne E. Robinson  
Staff Judge Advocate  
Department of the Air Force  
Air Force Accounting and Finance Center/JA  
Denver, Colorado 80279

Dear Colonel Robinson:

Joseph Brennan, Attorney General of the State of Maine referred for reply your June 23, 1977 letter requesting the opinion as to whether or not the Survivor Benefit Plan and Retired Serviceman's Family Protection Plan benefits, as contained in 10 U.S.C. 1431-1455, would be included in the gross estate of a retired member of the Air Force under the laws of the State of Maine.

In respect to decedents, who are retired members of the Air Force and who were at the time of their decease non-residents of the State of Maine, the benefits of the Survivor Benefit Plan and the Retired Serviceman's Family Protection Plan would clearly not be subject to the inheritance tax of the State of Maine. Only real property and tangible personal property of a non-resident is subject to the State of Maine inheritance tax, 36 MRS A § 3461.

In respect to decedents, who are retired members of the Air Force and who were at the time of their decease Maine residents, the State of Maine Bureau of Taxation treats the annuities under the Survivor Benefit Plan and Retired Serviceman's Family Protection Plan, as contained in 10 U.S.C. § 1431-1455, as falling within the language of 36 M.R.S.A. § 3461 sub-§ 3.

The pertinent statutory language is as follows:

"The following property shall be subject to an inheritance tax for the use of the State:

. . . .

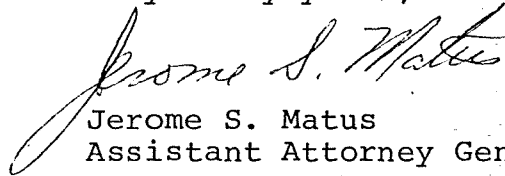
3. Proceeds of pension and profit sharing plans.  
All proceeds of a trust forming a part of a stock

bonus, pension or profit sharing plan, or of a non-trusted annuity plan purchased from an insurance company which constitutes a "qualified plan" or "qualified trust" under the Internal Revenue Code, or which plan was in existence on or before January 1, 1963, which become payable by reason of the death of the decedent, except for such part thereof as is payable to the widow or widower or issue of the decedent, . . ." 36 MRSA § 3461.

It follows that the survivor benefits under either of the plans payable to a widow, widower or issue either directly or through the estate would be exempt from the State of Maine inheritance tax. Survivor benefits payable to any other person would be taxable.

I trust the foregoing is of assistance to your.

Very truly yours,



Jerome S. Matus  
Assistant Attorney General

JSM:spa

cc: Joseph E. Brennan  
Inheritance Tax Section