

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1497

S. P. 538

In Senate, March 27, 1981

Referred to the Committee on Taxation. Sent down for concurrence and ordered printed.

MAY M. ROSS, Secretary of the Senate

Presented by Senator Wood of York.

Cosponsor: Representative Post of Owls Head.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Provide a Tax Exemption for the First \$3,000 of Savings for Individuals who Invest the Money in a Housing Development Account.

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

Sec. 1. 36 MRSA § 5122, sub-§ 3, as enacted by P&SL 1969, c. 154, § F, § 3, is repealed and the following enacted in its place:

3. Additions or subtractions. The following shall be added to or subtracted from federal adjusted gross income, as the case may be:

A. The taxpayer's share of the fiduciary adjustment determined under section 5164; and

B. For taxable years beginning on or after January 1, 1982, the modifications provided by section 6183, subsection 1 and section 6184 relating to registered home ownership savings plans.

Sec. 2. 36 MRSA § 5163, as enacted by P&SL 1969, c. 154, § F, § 1, is amended to read:

§ 5163. Taxable income of resident estate or trust

The taxable income of a resident estate or trust means its federal taxable income modified by the addition or subtraction, as the case may be, of its share of the

fiduciary adjustment determined under section 5164 and, for taxable years beginning on or after January 1, 1982, by section 6183, subsection 2 relating to registered home ownership savings plans.

Sec. 3. 36 MRSA c. 907 is enacted to read:

CHAPTER 907

REGISTERED HOME OWNERSHIP SAVINGS PLANS

§ 6181. Definitions

As used in this chapter, unless the context otherwise indicates, the following words have the following meanings.

1. **Beneficiary.** "Beneficiary" means an individual 18 years of age or over to whom, under a home ownership savings plan, a single payment is agreed to be paid but does not include an individual to whom, under a home ownership savings plan, a single payment is agreed to be paid as a consequence of the death of another individual.

2. **Contribution.** "Contribution" means any periodic or other amount paid by an individual under a home ownership savings plan as a payment referred to in subsection 3 for the purpose stated in that subsection.

3. **Home ownership savings plan.** "Home ownership savings plan" means an arrangement under which payment is made by an individual in trust to a corporation resident in this State and licensed or otherwise authorized under the laws of the United States, or this State, to carry on in this State the business of offering to the public its services as trustee, of any periodic or other amount as a payment under the trust to be used, invested or otherwise applied by that corporation for the purpose of providing to that individual as the beneficiary under the arrangement an amount to be used for the purchase by him of his owner-occupied home.

4. **Owner-occupied home.** "Owner-occupied home" means a housing unit or a share of the capital stock of a cooperative housing corporation owned, whether jointly with another person or otherwise, by the taxpayer, if the housing unit was, or if the share was acquired for the sole purpose of acquiring the right to inhabit a housing unit owned by the corporation that was, inhabited by the taxpayer at any time in the year or within 60 days after the end of the year and was situated in this State.

5. **Registered home ownership savings plan.** "Registered home ownership savings plan" means a home ownership savings plan accepted by the State Tax Assessor for registration for the purposes of this chapter.

§ 6182. Registration

The State Tax Assessor shall accept for registration for the purposes of this chapter any home ownership savings plan as to which the following conditions are met.

1. **Limited payments.** The plan does not provide for any payment to be made from the plan to the beneficiary other than a single payment to the beneficiary to be used by him for the purchase of his owner-occupied home.

2. **Limited assignment.** The plan includes a provision stipulating that the payment to the beneficiary thereunder is not capable, either in whole or in part, of surrender or assignment except to the spouse of the beneficiary on the death of the beneficiary.

3. **Limited amendment.** The plan includes a provision stipulating that the terms of the plan cannot be revised, amended or varied except to provide that the single payment shall, on the death of the beneficiary, be paid to his spouse or to delete a provision for the single payment to be made to the beneficiary's spouse.

4. **Termination at beneficiary's death.** The plan includes a provision stipulating that the trustee shall, on the death of the beneficiary, transfer or distribute all the property of the trust governed by the plan.

5. **Residency.** The beneficiary and the trust established under the plan are resident in the State.

6. **One-time benefit.** The beneficiary has not previously been a beneficiary under a registered home ownership savings plan.

7. **Nonownership of dwelling.** The beneficiary or his spouse with whom he is residing does not own and does not have an interest in a partnership that owns, whether jointly or otherwise, real property, any portion of which was used at any time in the year as a dwelling place by any individual.

8. **Other requirements.** The plan in all other respects complies with all rules of the State Tax Assessor relating thereto.

§ 6183. Income tax benefits

1. Beneficiary.

A. The federal adjusted gross income of a taxpayer who, at any time during the taxable year, is a beneficiary, shall be reduced by the amount of contributions paid by that taxpayer during the taxable year to a home ownership savings plan registered under section 6182 insofar as the contributions do not exceed the lesser of \$3,000 or \$21,000 minus the aggregate of contributions made to that plan by that taxpayer during previous taxable years. No reduction may be made for a taxable year if, in that year and the immediately preceding taxable year, the taxpayer had an owner-occupied home, or owned or had an interest in a partnership which owned, whether jointly or otherwise, real property, any portion of which was used in those years as a dwelling place by any individual.

B. If, under section 6184, subsection 1, an amount has been included in computing the income of a taxpayer for a particular taxable year and the taxpayer acquires an owner-occupied home in one of the first 3 taxable years

following that taxable year, the federal adjusted gross income of the taxpayer for the year in which the owner-occupied home was acquired shall be reduced by the aggregate of all the amounts used by him in the particular taxable year or in any taxable year subsequent to the particular taxable year but not subsequent to the taxable year in which the owner-occupied home was acquired to acquire the owner-occupied home.

2. Trust. If, throughout the period in the year during which a trust was in existence, the trust was governed by a registered home ownership savings plan, no tax is payable under Part 8 by the trust with respect to income attributable to that portion of the trust fund which derived from payments other than contributions deductible under subsection 1.

§ 6184. Recapture

1. Payments from plan. A taxpayer's federal adjusted gross income shall be increased by the aggregate of all amounts received by him during the taxable year from a trust governed by a registered home ownership savings plan, except to the extent that that amount:

A. Is a payment to the taxpayer and is used by him during the taxable year or within 60 days after the end of the taxable year to acquire his owner-occupied home; or

B. Is deemed under subsection 2 to have been received by a beneficiary and has been included in computing any taxpayer's income.

2. Death of beneficiary. In the event of the death of a beneficiary, an amount equal to the fair market value at that time of all the property of the trust governed by a registered home ownership savings plan of which he was the beneficiary is deemed to have been received by him immediately before his death from a trust governed by the plan. If on the death of a beneficiary and as a consequence thereof, the spouse of the beneficiary becomes entitled to receive a single payment from a trust governed by a registered home ownership savings plan and the spouse receives that payment within 15 months after the death of the beneficiary, that payment is deemed to be an amount received by the spouse from a trust governed by a registered home ownership savings plan and no amount in respect of that payment is deemed to have been received by the deceased beneficiary immediately before his death.

3. After 20 years. With respect to the 21st taxable year of the beneficiary after his taxable year in which the plan was entered into, and in respect to taxable years subsequent thereto, the following provisions apply.

A. The beneficiary is deemed to have received in the particular taxable year, from a trust governed by a registered home ownership savings plan, an amount equal to the fair market value of all of the property of the trust at the end of the immediately preceding taxable year.

B. Notwithstanding section 6183, subsection 1, paragraph B, no amount may be

deducted in computing the beneficiary's income in respect of any amounts used to acquire an owner-occupied home in the particular taxable year or any subsequent taxable year.

C. For the particular taxable year and all taxable years subsequent to that year, the plan is deemed for the purposes of this chapter not to be a registered home ownership savings plan.

4. Revocation. If the State Tax Assessor revokes the registration of a registered home ownership savings plan, the beneficiary is deemed to have received, at the time of revocation, from a trust governed by a registered home ownership savings plan an amount equal to the fair market value at that time of all the property of the trust and, notwithstanding subsection 1, no amount may be deducted in computing his income in respect of any amounts used to purchase an owner-occupied home.

§ 6185. Revocation

Where, at any time after a home ownership savings plan has been accepted for registration for the purposes of this chapter, the State Tax Assessor is satisfied that the requirements of section 6182 were not complied with at the time the plan was registered, or that the plan subsequently failed to meet the requirements of section 6182, subsections 1, 2, 3, 4 or 8, or that, in respect of the registration of a 2nd plan, the provisions of section 6186 were not complied with, the State Tax Assessor may revoke the registration of the plan, and he shall thereafter give notice of his action by registered mail to the trustee and to the beneficiary.

§ 6186. Second plan

Where a beneficiary under a registered home ownership savings plan, in this section referred to as the "first plan," enters into another home ownership savings plan, in this section referred to as the "2nd plan," the State Tax Assessor may, notwithstanding section 6182, subsections 6 and 7, register the 2nd plan if all amounts in the first plan have been paid or transferred, on behalf of the beneficiary, to the 2nd plan; the 2nd plan complies with the requirements of section 6182, subsections 1 to 4 and 8 at the time of the payment or transfer; and the beneficiary and the trust established under the 2nd plan are resident in this State at the time of the payment or transfer.

Notwithstanding any provision to the contrary in this chapter, a registered home ownership savings plan may at any time be revised or amended to provide for the payment or transfer, on behalf of the beneficiary under the plan, of all funds thereunder by the corporation with whom the beneficiary has a home ownership savings plan to another corporation with whom the beneficiary has such an arrangement, and upon such payment or transfer of those funds, the amount so paid or transferred on behalf of the beneficiary shall not, by reason only of the payment or transfer, be included in computing his income under section 6184, subsection 1; and no deduction may be made under section 6183, subsection 1, paragraph A in respect of the amount so paid or transferred in computing the income of the beneficiary for a taxable year.

For the purposes of section 6183, subsection 1, paragraph A and section 6184, subsection 3, the first plan of a particular beneficiary, his 2nd plan, and any subsequent such 2nd plans are deemed to be one plan.

STATEMENT OF FACT

This bill would assist individuals in acquiring their own homes by allowing a one-time participation in a home ownership savings plan. The individual's contributions to the plan, up to \$3,000 per year and \$21,000 aggregate, would not be treated as taxable income under the Maine income tax and the income produced by the plan would not be taxable either to the plan or the participating individual insofar as it derived from those contributions. The amount accumulated under the plan would ordinarily not be taxable upon removal from the plan if invested in an owner-occupied home.