

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2005

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Legislative Document

No. 700

S.P. 237

In Senate, February 10, 2005

### **An Act To Provide Tax Benefits for Sale of Leased Land Used as a Primary Residence**

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Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator DAVIS of Piscataquis.  
Cosponsored by Representative CLARK of Millinocket and  
Senators: BRYANT of Oxford, CLUKEY of Aroostook, HASTINGS of Oxford, MILLS of  
Somerset, NUTTING of Androscoggin, WOODCOCK of Franklin, Representatives: ANNIS of  
Dover-Foxcroft, BOWLES of Sanford.

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

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

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

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

(2) With respect to all other property, for the taxable year immediately following the taxable year during which the property was first placed in service, the fraction allowed by this paragraph is equal to 5% of the amount added back under subsection 1, paragraph 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.

In the case of property expensed pursuant to Section 179 of 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

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

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

For income tax years beginning on or after January 1, 2004, an amount equal to the total premiums spent for qualified long-term care insurance contracts certified under Title 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. Capital gains from the sale of property to a person who,  
10 at the time of the sale, is leasing the property for use as  
a primary residence.

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

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

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

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

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

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

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

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

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

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

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

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20 P. Capital gains from the sale of property to a person who,  
21 at the time of the sale, is leasing the property for use as  
22 a primary residence.

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24 **Sec. 7. Application.** This Act applies to tax years beginning  
25 on or after January 1, 2005.

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28 **SUMMARY**

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30 This bill provides an income tax exemption for capital gains  
31 for the seller when the sale of property is to a person who, at  
32 the time of the sale, is leasing the property for use as a  
primary residence.