

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 196

H.P. 161

House of Representatives, January 21, 2009

An Act To Exempt Military Pensions from Income Tax

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative KNIGHT of Livermore Falls.
Cosponsored by Representative WATSON of Bath, Senator DAVIS of Cumberland and
Representatives: CHASE of Wells, CLARK of Millinocket, GILES of Belfast, LANGLEY of
Ellsworth, PIOTTI of Unity, SIROIS of Turner, WEAVER of York.

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

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

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

8 (1) Six thousand dollars reduced by the total amount of the individual's social
9 security benefits and railroad retirement benefits paid by the United States, but
10 not less than \$0. The reduction does not apply to benefits paid under a military
11 retirement plan; or

12 (2) The aggregate of pension benefits under employee retirement plans included
13 in the individual's federal adjusted gross income, excluding military retirement
14 benefits under a military retirement plan for military personnel.

15 For purposes of this paragraph, the following terms have the following meanings.
16 "Primary recipient" means the individual upon whose earnings the employee
17 retirement plan benefits are based or the surviving spouse of that individual.
18 "Pension benefits" means employee retirement plan benefits reported as pension or
19 annuity income for federal income tax purposes. "Employee retirement plan" means
20 a state, federal or military retirement plan or any other retirement benefit plan
21 established and maintained by an employer for the benefit of its employees under the
22 Code, Section 401(a), Section 403 or Section 457(b), except that distributions made
23 pursuant to a Section 457(b) plan are not eligible for the deduction provided by this
24 paragraph if they are made prior to age 55 and are not part of a series of substantially
25 equal periodic payments made for the life of the primary recipient or the joint lives of
26 the primary recipient and that recipient's designated beneficiary. "Employee
27 retirement plan" does not include an individual retirement account under Section 408
28 of the Code, a Roth IRA under Section 408A of the Code, a rollover individual
29 retirement account, a simplified employee pension under Section 408(k) of the Code
30 or an ineligible deferred compensation plan under Section 457(f) of the Code.
31 Pension benefits under an employee retirement plan do not include distributions that
32 are subject to the tax imposed by the Code, Section 72(t). "Military retirement plan"
33 means benefits received as a result of service in the active or reserve components of
34 the Army, Navy, Air Force, Marines or Coast Guard;

35 **Sec. 2. Application.** This Act applies to tax years beginning on or after January 1,
36 2009.

37 **SUMMARY**

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