

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 342

S.P. 106

In Senate, February 3, 2009

An Act To Exempt Annuities from Taxation

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 NASS of York.

Cosponsored by Senators: COURTNEY of York, ROSEN of Hancock.

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

2 **Sec. 1. 36 MRSA §2512**, as amended by PL 1985, c. 783, §10, is further amended
3 to read:

4 **§2512. Annual returns to Superintendent of Insurance**

5 Every domestic life insurance company shall include in its annual return to the
6 Superintendent of Insurance a statement of the amount of premiums ~~and annuity~~
7 ~~considerations~~ liable to taxation as provided in section 2513, and of the real estate held by
8 it on the 31st day of the previous December, showing in detail the amount of all
9 premiums ~~including annuity considerations~~ whether in cash or notes absolutely payable,
10 received by the company from residents of this State during the preceding calendar year
11 and all dividends paid to policyholders in this State on account of the premiums ~~or~~
12 ~~annuity considerations~~ as required by blanks furnished by the superintendent. The taxes
13 provided by section 2513 shall must be paid as provided in section 2521-A, ~~and this~~
14 ~~section and section 2518 shall be applicable thereto.~~

15 **Sec. 2. 36 MRSA §2513**, as amended by PL 2007, c. 627, §52, is further amended
16 to read:

17 **§2513. Tax on premiums**

18 Every insurance company or association that does business or collects premiums or
19 assessments ~~including annuity considerations~~ in the State, including surety companies
20 and companies engaged in the business of credit insurance or title insurance, shall, for the
21 privilege of doing business in this State and in addition to any other taxes imposed for
22 that privilege, pay a tax upon all gross direct premiums ~~including, except~~ annuity
23 considerations, whether in cash or otherwise, on contracts written on risks located or
24 resident in the State for insurance of life, ~~annuity~~, fire, casualty and other risks at the rate
25 of 2% a year. Every surplus lines insurer that does business or collects premiums in the
26 State shall, for the privilege of doing business in this State and in addition to any other
27 taxes imposed for that privilege, pay a tax upon all gross direct premiums, whether in
28 cash or otherwise, on contracts written on risks located or resident in the State at the rate
29 of 3% a year. The producer of those contracts must collect the tax and report and pay the
30 tax to the State Tax Assessor as provided in section 2521-A. For purposes of this section,
31 the term "annuity considerations" includes amounts paid to an insurance company when
32 received for the purchase of a contract that may result in an annuity, even when the
33 annuitization never occurs or does not occur until some time in the future and the
34 amounts are in the meantime applied to an investment vehicle other than an annuity. This
35 section does not apply to mutual fire insurance companies subject to tax under section
36 2517 or to captive insurance companies formed or licensed under Title 24-A, chapter 83
37 or under the laws of another state.

38 ~~Notwithstanding this section, annuity considerations received in tax years ending~~
39 ~~prior to January 1, 1999 upon which no tax was paid in the year received must be taxed in~~
40 ~~the year in which an annuity is actually purchased.~~

1 Notwithstanding this section, for income tax years commencing on or after January 1,
2 1989, the tax imposed by this section upon all gross direct premiums collected or
3 contracted for on long-term care policies, as certified by the superintendent pursuant to
4 Title 24-A, section 5054, must be at the rate of 1% a year.

5 Notwithstanding this section, for tax years commencing on or after January 1, 1997,
6 the tax imposed by this section with respect to premiums on qualified group disability
7 policies written by every insurer, except a large domestic insurer, must be at the rate of
8 1% and must be at the rate of 2.55% with respect to those premiums written by every
9 large domestic insurer. For the purposes of this section, the term "qualified group
10 disability policies" is limited to group health insurance policies properly reported as such
11 in the insurer's annual statement and whose sole coverage is the full or partial
12 replacement of an individual's income in the event of disability. Policies that contain
13 coverages in addition to replacement of income coverage are considered to solely provide
14 that coverage as long as the premium related to the additional coverages is not more than
15 10% of the total premium charged. The term "qualified group disability policies" does
16 not include workers' compensation insurance policies, policies that include coverages that
17 are collectively renewable, policies that provide for credit disability insurance or policies
18 that pay benefits only upon the occurrence of hospitalization. For purposes of this
19 section, a "large domestic insurer" is any insurer domiciled in this State with assets in
20 excess of \$5,000,000,000 as reported on its annual statement.

21 **Sec. 3. 36 MRSA §2514**, as amended by PL 1987, c. 343, §7, is further amended
22 to read:

23 **§2514. Applicability of provisions**

24 Sections 2512 and 2513 ~~shall~~ do not apply to the taxation of any annuity
25 consideration on any annuity contract issued prior to August 1, 1943 or after October 1,
26 2009. Sections 2512 and 2513 ~~shall~~ do not apply to any premium from an insurance
27 contract, which premium is received prior to October 1, 1969, or any consideration,
28 regardless of when received, from any retirement annuity contracts issued by an
29 insurance or annuity company organized and operated without profit to any private
30 shareholder or individual exclusively for the purpose of aiding nonproprietary educational
31 and scientific institutions pursuant to a retirement program established under the United
32 States Internal Revenue Code, Section 403 (b). Premiums or considerations received from
33 life insurance policies or annuity contracts issued in connection with the funding of a
34 deferred compensation plan described under the United States Internal Revenue Code,
35 Section 457, a pension, annuity or profit-sharing plan or individual retirement account or
36 annuity qualified or exempt under the United States Internal Revenue Code, Section 401,
37 403, 404, 408 or 501, as now or hereafter amended or renumbered from time to time,
38 ~~shall be~~ are exempt from tax.

39 **Sec. 4. Effective date.** This Act takes effect October 1, 2009.

SUMMARY

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This bill exempts annuity considerations from the tax imposed on insurance premiums beginning October 1, 2009.