

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 618

S.P. 233

In Senate, February 17, 2009

An Act To Reduce Income Tax on Capital Gains

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator SMITH of Piscataquis.
Cosponsored by Representative TARDY of Newport and
Senators: NASS of York, RAYE of Washington, Representatives: CURTIS of Madison,
DAVIS of Sangerville, FLETCHER of Winslow, JOHNSON of Greenville, KNIGHT of
Livermore Falls, SAVIELLO of Wilton.

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

2 **Sec. 1. 36 MRSA §5122, sub-§2, ¶AA**, as corrected by RR 2007, c. 2, §23, is
3 amended to read:

4 AA. For taxable years beginning on or after January 1, 2009, an amount equal to the
5 net decrease in the depreciation deductions allowable under sections 167 and 168 of
6 the Code that would have been applicable to that property had the 50% bonus
7 depreciation deduction under Section 103 of the Economic Stimulus Act of 2008,
8 Public Law 110-185 not been claimed with respect to such property for which an
9 addition was required under subsection 1, paragraph AA in a prior year.

10 Upon the taxable disposition of property to which this paragraph applies, the amount
11 of any gain or loss includable in federal adjusted gross income must be adjusted for
12 Maine income tax purposes by an amount equal to the difference between the
13 addition modification for such property under subsection 1, paragraph AA and the
14 subtraction modifications allowed pursuant to this paragraph.

15 The total amount of subtraction claimed for property under this paragraph for all tax
16 years may not exceed the addition modification under subsection 1, paragraph AA for
17 the same property; ~~and~~

18 **Sec. 2. 36 MRSA §5122, sub-§2, ¶BB**, as reallocated by RR 2007, c. 2, §24, is
19 amended to read:

20 BB. The amount of pension benefits to the extent included in federal adjusted gross
21 income under a military retirement plan as defined in paragraph M that exceed the
22 amount of military retirement plan pension benefits deducted under paragraph M and
23 that are received by a person who practices as a licensed dentist in this State for an
24 average of at least 20 hours per week during the tax year and who accepts patients
25 who receive benefits under the MaineCare program administered under Title 22,
26 chapter 855-~~;~~ and

27 **Sec. 3. 36 MRSA §5122, sub-§2, ¶CC** is enacted to read:

28 CC. One-half of the amount of net long-term capital gains. For purposes of this
29 paragraph, "net long-term capital gains" means long-term capital gains less long-term
30 capital losses.

31 **Sec. 4. 36 MRSA §5200-A, sub-§2, ¶R**, as amended by PL 2007, c. 700, Pt. B,
32 §5, is further amended to read:

33 R. For taxable years beginning on or after January 1, 2009, an amount equal to the
34 net decrease in the depreciation deductions allowable under sections 167 and 168 of
35 the Code that would have been applicable to that property had the 50% bonus
36 depreciation deduction under Section 103 of the Economic Stimulus Act of 2008,
37 Public Law 110-185 not been claimed with respect to such property for which an
38 addition was required under subsection 1, paragraph T in a prior year.

39 Upon the taxable disposition of property to which this paragraph applies, the amount
40 of any gain or loss includable in federal adjusted gross income must be adjusted for

1 Maine income tax purposes by an amount equal to the difference between the
2 addition modification for such property under subsection 1, paragraph T and the
3 subtraction modifications allowed pursuant to this paragraph.

4 The total amount of subtraction claimed for property under this paragraph for all tax
5 years may not exceed the addition modification under subsection 1, paragraph T for
6 the same property; and.

7 **Sec. 5. 36 MRSA §5200-A, sub-§2, ¶S,** as enacted by PL 2007, c. 700, Pt. B, §6,
8 is amended to read:

9 S. An amount equal to the value of any prior year addition modification under
10 subsection 1, paragraph U, but only to the extent that:

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

12 (2) The taxable year is within the allowable federal period for carryover of the
13 net operating loss plus one year; and

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

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

17 T. One-half of the amount of net long-term capital gains. For purposes of this
18 paragraph, "net long-term capital gains" means long-term capital gains less long-term
19 capital losses.

20 **Sec. 7. Application.** This Act applies to tax years beginning on or after January 1,
21 2009.

22 SUMMARY

23 This bill excludes from both the individual and corporate income tax 1/2 of net long-
24 term capital gains.