

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)



# 127th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2016

---

Legislative Document

No. 1506

---

H.P. 1029

House of Representatives, December 23, 2015

**An Act To Make Additional Technical Changes to Recently Enacted  
Tax Legislation Concerning Pension Income**

(EMERGENCY)

---

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 21, 2015. Referred to the Committee on Taxation pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative FREDETTE of Newport.  
Cosponsored by Representatives: FARRIN of Norridgewock, GOLDEN of Lewiston,  
HANINGTON of Lincoln, NUTTING of Oakland, SEAVEY of Kennebunkport, SIROCKI of  
Scarborough, TIMBERLAKE of Turner.

1           **Emergency preamble. Whereas,** acts and resolves of the Legislature do not  
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3           **Whereas,** state tax law needs to be updated before the 90-day period expires to  
4 ensure the proper filing and processing of income tax returns for 2015; and

5           **Whereas,** legislative action is immediately necessary to ensure continued and  
6 efficient administration of the state income tax; and

7           **Whereas,** in the judgment of the Legislature, these facts create an emergency within  
8 the meaning of the Constitution of Maine and require the following legislation as  
9 immediately necessary for the preservation of the public peace, health and safety; now,  
10 therefore,

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

12           **Sec. 1. 36 MRSA §5122, sub-§2, ¶M-1,** as amended by PL 2015, c. 328, §3, is  
13 further amended to read:

14           M-1. For tax years beginning on or after January 1, 2014 but before January 1, 2016,  
15 for each individual who is a primary recipient of retirement plan benefits under an  
16 employee retirement plan or an individual retirement account, an amount that is the  
17 lesser of the aggregate of retirement plan benefits under employee retirement plans or  
18 individual retirement accounts included in the individual's federal adjusted gross  
19 income and the pension deduction amount reduced by the total amount of the  
20 individual's social security benefits and railroad retirement benefits paid by the  
21 United States, but not less than \$0. The social security benefits and railroad  
22 retirement benefits reduction does not apply to benefits paid under a military  
23 retirement plan.

24 For purposes of this paragraph, the following terms have the following meanings.

25           (1) "Employee retirement plan" means a state or federal or military retirement  
26 plan or any other retirement benefit plan established and maintained by an  
27 employer for the benefit of its employees under the Code, Section 401(a), Section  
28 403 or Section 457(b), except that distributions made pursuant to a Section  
29 457(b) plan are not eligible for the deduction provided by this paragraph if they  
30 are made prior to age 55 and are not part of a series of substantially equal  
31 periodic payments made for the life of the primary recipient or the joint lives of  
32 the primary recipient and that recipient's designated beneficiary. ~~"Employee~~  
33 ~~retirement plan" does not include a military retirement plan or survivor benefits~~  
34 ~~under such a plan.~~

35           (2) "Individual retirement account" means an individual retirement account  
36 under Section 408 of the Code, a Roth IRA under Section 408A of the Code, a  
37 simplified employee pension under Section 408(k) of the Code or a simple  
38 retirement account for employees under Section 408(p) of the Code.

1 (3) "Military retirement plan" means retirement plan benefits received as a result  
2 of service in the active or reserve components of the Army, Navy, Air Force,  
3 Marines or Coast Guard.

4 (4) "Pension deduction amount" means \$10,000 ~~for tax years beginning on or~~  
5 ~~after January 1, 2014.~~

6 (5) "Primary recipient" means the individual upon whose earnings or  
7 contributions the retirement plan benefits are based or the surviving spouse of  
8 that individual.

9 (6) "Retirement plan benefits" means employee retirement plan benefits, except  
10 pick-up contributions for which a subtraction is allowed under paragraph E,  
11 reported as pension or annuity income for federal income tax purposes and  
12 individual retirement account benefits reported as individual retirement account  
13 distributions for federal income tax purposes. "Retirement plan benefits" does  
14 not include distributions that are subject to the tax imposed by the Code, Section  
15 72(t);

16 **Sec. 2. 36 MRSA §5122, sub-§2, ¶M-2**, as enacted by PL 2015, c. 267, Pt. DD,  
17 §10, is amended to read:

18 M-2. For tax years beginning on or after January 1, 2016:

19 (1) For each individual who is a primary recipient of retirement plan benefits, the  
20 reduction is the sum of:

21 (a) ~~Excluding military retirement plan benefits, an amount that is the lesser~~  
22 ~~of the aggregate of retirement plan benefits under employee retirement plans~~  
23 ~~or individual retirement accounts included in the individual's federal adjusted~~  
24 ~~gross income and the pension deduction amount. The amount claimed under~~  
25 ~~this division must be reduced by the total amount of the individual's social~~  
26 ~~security benefits and railroad retirement benefits paid by the United States,~~  
27 ~~but not less than \$0; and;~~

28 (i) The aggregate of retirement plan benefits under employee retirement  
29 plans or individual retirement accounts included in the individual's  
30 federal adjusted gross income; and

31 (ii) The pension deduction amount reduced by the total amount of the  
32 individual's social security benefits and railroad retirement benefits paid  
33 by the United States, but not less than \$0; and

34 (b) An amount equal to the aggregate of retirement benefits under military  
35 retirement plans included in the individual's federal adjusted gross income;  
36 and

37 (2) For purposes of this paragraph, the following terms have the following  
38 meanings.

39 (a) "Employee retirement plan" means a state, federal or military retirement  
40 plan or any other retirement benefit plan established and maintained by an  
41 employer for the benefit of its employees under the Code, Section 401(a),

1 Section 403 or Section 457(b), except that distributions made pursuant to a  
2 Section 457(b) plan are not eligible for the deduction provided by this  
3 paragraph if they are made prior to age 55 and are not part of a series of  
4 substantially equal periodic payments made for the life of the primary  
5 recipient or the joint lives of the primary recipient and that recipient's  
6 designated beneficiary.

7 (b) "Individual retirement account" means an individual retirement account  
8 under Section 408 of the Code, a Roth IRA under Section 408A of the Code,  
9 a simplified employee pension under Section 408(k) of the Code or a simple  
10 retirement account for employees under Section 408(p) of the Code.

11 (c) "Military retirement plan" means retirement plan benefits received as a  
12 result of service in the active or reserve components of the Army, Navy, Air  
13 Force, Marines or Coast Guard.

14 (d) "Pension deduction amount" means \$10,000 ~~for tax years beginning in~~  
15 ~~2014~~.

16 (e) "Primary recipient" means the individual upon whose earnings or  
17 contributions the retirement plan benefits are based or the surviving spouse of  
18 that individual.

19 (f) "Retirement plan benefits" means employee retirement plan benefits,  
20 except pick-up contributions for which a subtraction is allowed under  
21 paragraph E, reported as pension or annuity income for federal income tax  
22 purposes and individual retirement account benefits reported as individual  
23 retirement account distributions for federal income tax purposes.  
24 "Retirement plan benefits" does not include distributions that are subject to  
25 the tax imposed by the Code, Section 72(t);

26 **Sec. 3. 36 MRSA §5122, sub-§2, ¶BB**, as amended by PL 2015, c. 300, Pt. A,  
27 §40, is further amended to read:

28 BB. The amount of pension benefits to the extent included in federal adjusted gross  
29 income under a military retirement plan as defined in paragraph M ~~or~~ M-1 or M-2  
30 that exceed the amount of military retirement plan pension benefits deducted under  
31 paragraph M ~~or~~ M-1 or M-2 and that are received by a person who practices as a  
32 licensed dentist in this State for an average of at least 20 hours per week during the  
33 tax year and who accepts patients who receive benefits under the MaineCare program  
34 administered under Title 22, chapter 855;

35 **Sec. 4. Retroactivity.** That section of this Act that amends the Maine Revised  
36 Statutes, Title 36, section 5122, subsection 2, paragraph M-1 applies retroactively to June  
37 30, 2015.

38 **Emergency clause.** In view of the emergency cited in the preamble, this  
39 legislation takes effect when approved.

1

## SUMMARY

2           This bill makes the following changes to the Maine tax laws.

3           1. It corrects an inadvertent change made by Public Law 2015, chapter 267 to the  
4 individual income tax pension deduction for tax years beginning in 2014 and 2015 that,  
5 without this correction, would result in a requirement that military pensions be offset by  
6 social security benefits and railroad retirement benefits received by the taxpayer during  
7 the taxable year. The law prior to the change by Public Law 2015, chapter 267 did not  
8 require the social security benefits and railroad retirement benefits offset. This change is  
9 retroactive to June 30, 2015, the effective date of Public Law 2015, chapter 267.

10           2. It clarifies the offset of social security and railroad retirement benefits in  
11 calculating the pension income deduction for tax years beginning on or after January 1,  
12 2016.

13           3. It removes an incorrect reference to "tax years beginning in 2014" that appears in  
14 the individual income tax pension deduction provision that applies to tax years beginning  
15 after 2015.

16           4. It updates references to the statutory provisions governing the pension deduction  
17 in order to reflect recent changes.