

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Provide Equity in the State Income Tax Deduction for Maine Public Employees Retirement System Pensions

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

Sec. 1. 36 MRSA §5122, sub-§2, ¶M-2, as amended by PL 2017, c. 170, Pt. H, §3, is further amended to read:

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

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

(a) Excluding military retirement plan benefits and, for tax years beginning on or after January 1, 2019, uncovered civil service retirement plan benefits, an amount that is the lesser of:

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

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

(b) An amount equal to the aggregate of retirement benefits under military retirement plans and, for tax years beginning on or after January 1, 2019, uncovered civil service retirement plans included in the individual's federal adjusted gross income; and

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

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

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

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

(d) "Pension deduction amount" means \$10,000.

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

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

(g) "Uncovered civil service retirement plan" means retirement plan benefits received under Title 5, Part 20, or a similar retirement plan of another state government, a local government or the Federal Government, as a result of service that is considered noncovered service under 42 United States Code, Section 415(a)(7)(A)(ii);

SUMMARY

Retirement benefits under state, local or federal government retirement plans that are based on employment compensation for which contributions are not made to the federal Social Security system result in reductions in the amount of Social Security benefits that a retiree is eligible to receive under the federal Windfall Elimination Provision. This bill provides an income tax exemption for those retirement benefits.