



125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 647

H.P. 477

House of Representatives, February 17, 2011

An Act To Exempt Retired Military Pay from State Income Tax

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script, reading 'Heather J.R. Priest'.

HEATHER J.R. PRIEST
Clerk

Presented by Representative JOHNSON of Greenville.
Cosponsored by Representatives: BURNS of Alfred, HARVELL of Farmington, KNIGHT of Livermore Falls and Representatives: CROCKETT of Bethel, DAMON of Bangor, HARMON of Palermo.

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, an amount that is the lesser of:

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

10 (2) The aggregate of pension benefits under employee retirement plans included
11 in the individual's federal adjusted gross income.

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

33 **Sec. 2. 36 MRSA §5122, sub-§2, ¶FF**, as corrected by RR 2009, c. 2, §112, is
34 amended to read:

35 FF. To the extent included in federal adjusted gross income, student loan payments
36 made by the taxpayer's employer in accordance with section 5217-D; ~~and~~

37 **Sec. 3. 36 MRSA §5122, sub-§2, ¶GG**, as reallocated by RR 2009, c. 2, §113, is
38 amended to read:

39 GG. To the extent included in the taxpayer's federal adjusted gross income, the
40 recovery of a portion of a federal standard deduction claimed in a prior year for
41 which the taxpayer was not allowed under this Part to reduce federal adjusted gross
42 income or Maine adjusted gross income for that year; and

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Sec. 4. 36 MRSA §5122, sub-§2, ¶HH is enacted to read:

HH. The benefits paid under a military retirement plan in an amount equal to:

(1) Twenty percent of the benefits paid for tax years beginning on or after January 1, 2011, but before January 1, 2012;

(2) Forty percent of the benefits paid for tax years beginning on or after January 1, 2012, but before January 1, 2013;

(3) Sixty percent of the benefits paid for tax years beginning on or after January 1, 2013, but before January 1, 2014;

(4) Eighty percent of the benefits paid for tax years beginning on or after January 1, 2014, but before January 1, 2015; and

(5) One hundred percent of the benefits paid for tax years beginning or after January 1, 2015.

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

SUMMARY

This bill exempts from the state income tax military pension benefits received by a Maine resident as a result of military service in the active or reserve components of the Army, Navy, Air Force, Marines or Coast Guard. The bill provides for a partial exemption of the benefit during the first 4 years that the exemption is allowed with a full exemption in the 5th year.