

STATE OF NEW YORK

4336

2017-2018 Regular Sessions

IN ASSEMBLY

February 2, 2017

Introduced by M. of A. KOLB -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to clarifying the applicability of certain exemptions to periodic distributions from a nonqualified pension plan

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph 3-a of subsection (c) of section 612 of the tax
2 law, as amended by section 3 of part I of chapter 59 of the laws of
3 2015, is amended to read as follows:

4 (3-a) Pensions and annuities received by an individual who has
5 attained the age of fifty-nine and one-half, not otherwise excluded
6 pursuant to paragraph three of this subsection, to the extent includible
7 in gross income for federal income tax purposes, but not in excess of
8 twenty thousand dollars, which are periodic payments attributable to
9 personal services performed by such individual prior to his retirement
10 from employment, which arise (i) from an employer-employee relationship
11 or (ii) from contributions to a retirement plan which are deductible for
12 federal income tax purposes. However, the term "pensions and annuities"
13 shall also include distributions received by an individual who has
14 attained the age of fifty-nine and one-half from an individual retire-
15 ment account or an individual retirement annuity, as defined in section
16 four hundred eight of the internal revenue code, and distributions
17 received by an individual who has attained the age of fifty-nine and
18 one-half from self-employed individual and owner-employee retirement
19 plans which qualify under section four hundred one of the internal
20 revenue code, whether or not the payments are periodic in nature. The
21 term "pensions and annuities" shall also include distributions from
22 pension plans that are not qualified under the Internal Revenue Code,
23 but otherwise meet the requirements of this subsection, regardless of
24 whether such distributions are reported as wages on IRS Form W-2. Never-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 theless, the term "pensions and annuities" shall not include any lump
2 sum distribution, as defined in subparagraph ~~(D)~~ (A) of paragraph four
3 of subsection (e) of section four hundred two of the internal revenue
4 code and taxed under section six hundred three of this article. Where a
5 husband and wife file a joint state personal income tax return, the
6 modification provided for in this paragraph shall be computed as if they
7 were filing separate state personal income tax returns. Where a payment
8 would otherwise come within the meaning of the term "pensions and annui-
9 ties" as set forth in this paragraph, except that such individual is
10 deceased, such payment shall, nevertheless, be treated as a pension or
11 annuity for purposes of this paragraph if such payment is received by
12 such individual's beneficiary.

13 § 2. This act shall take effect on the one hundred twentieth day after
14 it shall have become a law.