

3039

2009-2010 Regular Sessions

I N A S S E M B L Y

January 22, 2009

Introduced by M. of A. KOLB, TOWNSEND, MOLINARO, BACALLES, ERRIGO, McDONOUGH, FINCH -- Multi-Sponsored by -- M. of A. BARCLAY, DUPREY, QUINN, SAYWARD, SCOZZAFAVA, THIELE, WEISENBERG -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to making the first one hundred thousand dollars of an individuals' private pension non-taxable

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 chapter 760 of the laws of 1992, is amended to read
3 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] ONE HUNDRED thousand dollars, which are periodic payments
9 attributable to personal services performed by such individual prior to
10 his retirement from employment, which arise (i) from an employer-employ-
11 ee relationship or (ii) from contributions to a retirement plan which
12 are deductible for federal income tax purposes. [However, the term
13 "pensions and annuities" shall also include distributions received by an
14 individual who has attained the age of fifty-nine and one-half from an
15 individual retirement account or an individual retirement annuity, as
16 defined in section four hundred eight of the internal revenue code, and
17 distributions received by an individual who has attained the age of
18 fifty-nine and one-half from self-employed individual and owner-employee
19 retirement plans which qualify under section four hundred one of the
20 internal revenue code, whether or not the payments are periodic in
21 nature. Nevertheless, the] THE term "pensions and annuities" shall not
22 include any lump sum distribution, as defined in subparagraph (A) of
23 paragraph four of subsection (e) of section four hundred two of the

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

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1 internal revenue code and taxed under section six hundred three of this
2 article. Where a husband and wife file a joint state personal income tax
3 return, the modification provided for in this paragraph shall be
4 computed as if they were filing separate state personal income tax
5 returns. Where a payment would otherwise come within the meaning of the
6 term "pensions and annuities" as set forth in this paragraph, except
7 that such individual is deceased, such payment shall, nevertheless, be
8 treated as a pension or annuity for purposes of this paragraph if such
9 payment is received by such individual's beneficiary.

10 S 2. This act shall take effect immediately and shall be deemed to
11 have been in full force and effect on and after the first of January of
12 the year in which it shall have become a law.