S T A T E O F N E W Y O R K

3044

2009-2010 Regular Sessions

I N A S S E M B L Y

January 22, 2009

Introduced by M. of A. KOLB, CORWIN -- 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:

Section 1. Paragraph 3-a of subsection (c) of section 612 of the tax law, as amended by chapter 760 of the laws of 1992, is amended to read as follows:

(3-a) Pensions and annuities received by an individual who has attained the age of fifty-nine and one-half, not otherwise excluded pursuant to paragraph three of this subsection, to the extent includible in gross income for federal income tax purposes, but not in excess of twenty thousand dollars, which are periodic payments attributable to personal services performed by such individual prior to his retirement from employment, which arise (i) from an employer-employee relationship or (ii) from contributions to a retirement plan which are deductible for federal income tax purposes. However, the term "pensions and annuities" shall also include distributions received by an individual who has attained the age of fifty-nine and one-half from an individual retirement account or an individual retirement annuity, as defined in section four hundred eight of the internal revenue code, and distributions received by an individual who has attained the age of fifty-nine and one-half from self-employed individual and owner-employee retirement plans which qualify under section four hundred one of the internal revenue code, whether or not the payments are periodic in nature. THE TERM "PENSIONS AND ANNUITIES" SHALL ALSO INCLUDE DISTRIBUTIONS FROM PENSION PLANS THAT ARE NOT QUALIFIED UNDER THE INTERNAL REVENUE CODE, BUT OTHERWISE MEET THE REQUIREMENTS OF THIS SUBSECTION, REGARDLESS OF 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.

LBD03842-01-9

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

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