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

6503

2011-2012 Regular Sessions

I N   A S S E M B L Y

March 21, 2011

Introduced by M. of A. KOLB, MOLINARO, McDONOUGH, FINCH -- Multi-Sponsored by -- M. of A. BARCLAY, DUPREY, JORDAN, SAYWARD, 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:

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] ONE HUNDRED 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. Nevertheless, the] 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

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

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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 immediately and shall be deemed to have been in full force and effect on and after the first of January of the year in which it shall have become a law.