

6317

I N S E N A T E

January 25, 2012

Introduced by Sen. GRISANTI -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to increasing the exemption for pensions and annuities for certain persons

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] FIFTY thousand dollars, which are periodic payments attribut-
9 able to personal services performed by such individual prior to his
10 retirement from employment, which arise (i) from an employer-employee
11 relationship or (ii) from contributions to a retirement plan which are
12 deductible for federal income tax purposes. However, the term "pensions
13 and annuities" shall also include distributions received by an individ-
14 ual who has attained the age of fifty-nine and one-half from an individ-
15 ual retirement account or an individual retirement annuity, as defined
16 in section four hundred eight of the internal revenue code, and distrib-
17 utions received by an individual who has attained the age of fifty-nine
18 and 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. Never-
21 theless, the term "pensions and annuities" shall not include any lump
22 sum distribution, as defined in subparagraph (A) of paragraph four of
23 subsection (e) of section four hundred two of the internal revenue code
24 and taxed under section six hundred three of this article. Where a
25 husband and wife file a joint state personal income tax return, the
26 modification provided for in this paragraph shall be computed as if they
27 were filing separate state personal income tax returns. Where a payment

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

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1 would otherwise come within the meaning of the term "pensions and annui-
2 ties" as set forth in this paragraph, except that such individual is
3 deceased, such payment shall, nevertheless, be treated as a pension or
4 annuity for purposes of this paragraph if such payment is received by
5 such individual's beneficiary.

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