

# STATE OF NEW YORK

3943

2019-2020 Regular Sessions

## IN SENATE

February 21, 2019

Introduced by Sen. GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue

AN ACT to amend the tax law, in relation to personal income taxation of pensions and annuities

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~~ **thirty-five** 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 term "pensions and annuities" shall not  
22 include any lump sum distribution, as defined in subparagraph (D) of  
23 paragraph four of subsection (e) of section four hundred two of the  
24 internal revenue code and taxed under section six hundred three of this  
25 article. Where a husband and wife file a joint state personal income tax

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

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

8 § 2. This act shall take effect January 1, 2020 and shall apply to  
9 taxable years beginning on and after such date.