

ASSEMBLY, No. 278

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman BATEMAN

1 AN ACT clarifying the exclusion of disability pensions from gross
2 income for gross income tax purposes, and amending
3 N.J.S.54A:6-10.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

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8 1. N.J.S.54A:6-10 is amended to read as follows:

9 54A:6-10. Pensions and annuities. Gross income shall not include
10 that part of any amount received as an annuity under an annuity,
11 endowment, or life insurance contract which bears the same ratio to
12 such amount as the investment in the contract as of the annuity starting
13 date bears to the expected return under the contract as of such date.
14 Where (1) part of the consideration for an annuity, endowment, or life
15 insurance contract is contributed by the employer, and (2) during the
16 three-year period beginning on the date on which an amount is first
17 received under the contract as an annuity, the aggregate amount
18 receivable by the employee under the terms of the contract is equal to
19 or greater than the consideration for the contract contributed by the
20 employee, then all amounts received as an annuity under the contract
21 shall be excluded from gross income until there has been so excluded
22 an amount equal to the consideration for the contract contributed by
23 the employee.

24 In addition to that part of any amount received as an annuity which
25 is excludable from gross income as herein provided, gross income shall
26 not include payments of up to \$10,000.00 for a married couple filing
27 jointly, \$5,000.00 for a married person filing separately, or \$7,500.00
28 for an individual filing as a single taxpayer or an individual determining
29 tax pursuant to subsection a. of N.J.S.54A:2-1, which are received as
30 an annuity, endowment or life insurance contract, or payments of any
31 such amounts which are received as pension, disability, or retirement
32 benefits, under any public or private plan, whether the consideration

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 therefor is contributed by the employee or employer or both, by any
2 person who is 62 years of age or older or who, by virtue of disability,
3 is or would be eligible to receive payments under the federal Social
4 Security Act.

5 Gross income shall not include any amount received under any
6 public or private plan by reason of a permanent and total disability.
7 This exclusion shall apply, regardless of the age of the recipient, as
8 long as the plan states that the reason for the payment is the permanent
9 and total disability of the recipient.

10 Gross income shall not include distributions from an employees'
11 trust described in section 401(a) of the Internal Revenue Code of
12 1986, as amended (hereinafter referred to as "the Code"), which is
13 exempt from tax under section 501(a) of the Code if the distribution,
14 except the portion representing the employees' contributions, is rolled
15 over in accordance with section 402(a)(5) or section 403(a)(4) of the
16 Code. The distribution shall be paid in one or more installments which
17 constitute a lump-sum distribution within the meaning of section
18 402(e)(4)(A) (determined without reference to subsection (e)(4)(B)),
19 or be on account of a termination of a plan of which the trust is a part
20 or, in the case of a profit-sharing or stock bonus plan, a complete
21 discontinuance of contributions under such plan.

22 (cf: P.L.1990, c.61, s.16)

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24 2. This act shall take effect immediately, and apply to taxable years
25 ending after December 31, 1994.

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STATEMENT

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30 Under current law, "gross income" for purposes of the gross
31 income tax excludes any amount received by an individual under any
32 public or private plan because of a permanent and total disability. The
33 Division of Taxation has interpreted this exclusion as applying only to
34 recipients under the age of 65 years. If an individual retires before age
35 65 on a total and permanent disability pension and continues to receive
36 such pension payments after age 65, the disability pension becomes an
37 ordinary pension, according to the Division of Taxation. Therefore,
38 the payments become ordinary pension income, and are taxable after
39 the exclusion of certain amounts permitted by N.J.S.54A:6-10 and
40 54A:6-15.

41 The purpose of this bill is to permit the exclusion from "gross
42 income" of disability pension payments for recipients age 65 and older
43 as long as the public or private plan continues to designate the
44 payments as payments for the total and permanent disability of the
45 recipient.

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- 3 Clarifies exclusion of disability pensions from gross income for gross
- 4 income tax purposes.