

ASSEMBLY, No. 1176

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman DALTON

1 AN ACT concerning the exclusion of certain retirement income from  
2 gross income under the gross income tax, amending N.J.S.54A:6-10  
3 and P.L.1977, c.273.

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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]~~ \$20,000.00 for a married  
27 couple filing jointly, ~~[\$5,000.00]~~ \$10,000.00 for a married person filing  
28 separately, or ~~[\$7,500.00]~~ \$20,000.00 for an individual filing as a  
29 single taxpayer or an individual determining tax pursuant to subsection  
30 a. of N.J.S.54A:2-1, which are received as an annuity, endowment or  
31 life insurance contract, or payments of any such amounts which are  
32 received as pension, disability, or retirement benefits, under any public

**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 or private plan, whether the consideration therefor is contributed by  
2 the employee or employer or both, by any person who is [62] 55 years  
3 of age or older or who, by virtue of disability, is or would be eligible  
4 to receive payments under the federal Social 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 Gross income shall not include distributions from an employees'  
8 trust described in section 401(a) of the Internal Revenue Code of  
9 1986, as amended (hereinafter referred to as "the Code" ), which is  
10 exempt from tax under section 501(a) of the Code if the distribution,  
11 except the portion representing the employees' contributions, is rolled  
12 over in accordance with section 402(a)(5) or section 403(a)(4) of the  
13 Code. The distribution shall be paid in one or more installments which  
14 constitute a lump-sum distribution within the meaning of section  
15 402(e)(4)(A) (determined without reference to subsection (e)(4)(B)),  
16 or be on account of a termination of a plan of which the trust is a part  
17 or, in the case of a profit-sharing or stock bonus plan, a complete  
18 discontinuance of contributions under such plan.

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

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21 2. Section 3 of P.L.1977, c.273 (C.54A:6-15) is amended to read  
22 as follows:

23 3. Other retirement income. a. Gross income shall not include  
24 income of up to [~~\$10,000.00~~] \$20,000.00 for a married couple filing  
25 jointly, [~~\$5,000.00~~] \$10,000.00 for a married person filing separately,  
26 or [~~\$7,500.00~~] \$20,000.00 for an individual filing as a single taxpayer  
27 or an individual determining tax pursuant to subsection a. of  
28 N.J.S.54A:2-1, when received in any tax year by a person aged [62]  
29 55 years or older who received no income in excess of \$3,000.00 from  
30 one or more of the sources enumerated in subsections a., b., k. and p.  
31 of N.J.S.54A:5-1, provided, however, that the total exclusion under  
32 this subsection and that allowable under N.J.S.54A:6-10 shall not  
33 exceed the amounts of the exclusions set forth in this subsection.

34 b. In addition to the exclusion provided under N.J.S.54A:6-10 and  
35 subsection a. of this section, gross income shall not include income of  
36 up to \$6,000.00 for a married couple filing jointly or an individual  
37 determining tax pursuant to subsection a. of N.J.S.54A:2-1, or  
38 \$3,000.00 for a single person or a married person filing separately,  
39 who is not covered under N.J.S.54A:6-2 or N.J.S.54A:6-3, but who  
40 would be eligible in any year to receive payments under either section  
41 if he or she were covered thereby.

42 (cf: P.L.1993, c.173, s.17)

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44 3. This act shall take effect immediately, but shall apply to taxable  
45 years beginning on or after the effective date.

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## STATEMENT

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This bill amends N.J.S.54A:6-10 of the New Jersey Gross Income Tax Act so that a person 55 years of age or older, or a disabled individual eligible for federal Social Security benefits, would be able to exclude from gross income up to \$20,000 of certain retirement income if filing either jointly as a married couple or individually as a single taxpayer, or \$10,000 if married but filing separately. Currently under N.J.S.54A:6-10, a person 62 years of age or older, or a disabled individual eligible for federal Social Security benefits, may exclude only up to \$10,000 in retirement income if married filing jointly, \$5,000 if married filing separately and \$7,500 if filing as a single taxpayer. Excludable retirement income includes such items as payments upon an annuity, endowment or life insurance contract, pension, disability or retirement benefit payments from a private or public plan, or Individual Retirement Account withdrawals.

In addition, N.J.S.54A:6-15 is amended to increase the excludable amounts of other retirement income to match the levels in N.J.S.54A:6-10. Currently N.J.S.54A:6-15 permits the exclusion from gross income of other retirement income, such as interest and dividend earnings from investments, but only if the taxpayer has less than \$3,000 in income from such sources as a salary or wage, net profit from a business, or distribution of partnership income. The above current restriction is retained by the bill, as well as the restriction which limits the total amount of income excludable under both N.J.S.54:6-10 and N.J.S.54A:6-15 to \$20,000 for a married couple filing jointly or an individual filing as a single taxpayer, or \$10,000 for a married person filing separately.

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Increases amount of certain retirement income which may be excluded from gross income under the gross income tax; reduces age at which exclusion may be taken.